

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN QUIRITAN AND ARMINGOLO QUIRITAN, ACCUSED-APPELLANTS.*G.R. No. 67738. May 13, 1991*

Ponente: FERNAN, C.J.

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For the people of Sitio Irene, Municipality of Jimalalud, Negros Oriental, June 20, 1979 was "tabo" day. It was an occasion for festivities, games, cockfighting and the selling of various goods and merchandise. It was also the day when Jaime Senillo, a photographer by profession and a suspected NPA informer, was cold-bloodedly executed in plain view of the townfolks. Perhaps it was the sheer ruthlessness of the killers which struck fear in the hearts of the people. While there were several eyewitnesses who gave their sworn statements to the authorities, only two appeared in court to testify and their accounts provided the bases for the lower court's judgment of conviction.

In an information filed on September 30, 1980 with the then Court of First Instance of Negros Oriental, brothers Juan and Armingolo Quiritan, with several others, were charged with murder committed as follows:

"That on or about the 20th day of June, 1979, in sitio Irene, barangay Ampanangon, Municipality of Jimalalud, Province of Negros Oriental, Philippines, and within the jurisdiction of this Court, the above-named, accused, together with Arman Lopez, Vic Montalban, Jack Montilla, Johnny Doe, Jacobo Calpis, Jabaco Calpis and Warlito Dalios alias 'Wally' who are still at large, conspiring and confederating together, acting in concert and mutually helping one another, with evident premeditation, treachery and taking advantage of superior strength to better accomplish their purpose, did then and there wilfully, unlawfully and feloniously, and with intent to kill, attack, assault and stab one Jaime Senillo with bayonets, which said accused were then armed and provided, thereby inflicting injuries upon the body of Jaime Senillo, the fatal wound being 2 x 1 at left chest at level of third intercostal space, which directly caused the death of said Jaime Senillo." [1]

At the arraignment, the Quiritan brothers pleaded not guilty. The prosecution presented its first witness on February 18, 1981 in the person of IMP Station Commander Sgt. Glicerio Bulado, whose testimony centered mainly on the discovery and exhumation of three (3) decomposing bodies on July 21, 1979 in Sitio Irene, Jimalalud, Negros Oriental, one of which was reportedly that of Jaime Senillo. He was not cross-examined by the defense. [2]

At the next hearing on February 19, 1981, the prosecuting fiscal informed the trial court that his "very important witnesses" in the persons of Sancho Belando and Leonides Cabanag had retracted their statements. He asked the lower court for additional time to conduct a reinvestigation of the case. [3]

On March 21, 1981, the prosecuting fiscal submitted his resolution on the reinvestigation and concluded that, after considering the affidavits of three (3) witnesses for the People, namely Rafael Pacolanang (Paculanang), Atilano Sabanal and Bienvenido Avelino, there was sufficient evidence that the crime charged had been committed and that the accused were probably guilty thereof. He recommended that trial be resumed. [4] The eyewitness narrations of Pacolanang and Sabanal were ultimately adopted by the trial court in its decision rendered on

November 29, 1983. The dispositive part reads:

"WHEREFORE, in view of all the foregoing citations and authorities and the evidence of the prosecution, this court finds the accused Juan Quiritan and Armingolo Quiritan guilty beyond reasonable doubt of the crime of Murder defined and punished under Article 248 of the Revised Penal Code x x x and hereby sentences both the accused Juan Quiritan and Armingolo Quiritan to life imprisonment with all accessory penalties, and ordering both the accused to indemnify the heirs of the victim through his wife in the amount of P12,000.00. The period for their detention pending trial of this case shall be deducted from their sentence. . . ."[5]

The Quiritan brothers appealed to this Court. On April 24, 1985, we issued a resolution dismissing their appeal because of their failure to file brief within the extended period. But on motion for reconsideration, we reinstated the appeal and admitted their appellants' brief. The Solicitor General, as counsel for the People, filed a manifestation recommending the acquittal of the appellants on reasonable doubt.

During the pendency of the appeal or on March 23, 1985, one hundred forty-six (146) prisoners bolted the Provincial Jail Dumaguete City including herein accused Juan and Armingolo Quiritan. Armingolo returned to jail sometime in May, 1985, while his elder brother, Juan, remains at large to this day.[6]

In line with our pronouncement in a Resolution dated November 10, 1988 in G.R. No. 57718 entitled "People vs. Patajo," that if an accused-appellant escapes or refuses to surrender to the proper authorities, he is deemed to have abandoned his appeal, the instant petition for review is considered dismissed with regard to Juan Quiritan by reason of abandonment. His conviction for the killing of Jaime Senillo is deemed af-firmed and becomes final and executory. As for Armingolo Quiri-tan, who has willingly submitted himself to the jurisdiction of this Court, his appeal stands. This we now resolve.

As earlier stated, the conviction of Armingolo Quiritan is anchored on the eyewitness accounts of Rafael Pacolanang and Atilano Sabanal.

Rafael Pacolanang, 42 years old, married, testified that he was at the "tabo-an" in the municipality of Irene at around five in the afternoon of June 20, 1979 to buy dried fish and salt.[7] He recalled that he was about 20 meters from where he witnessed the slaying of Jaime Sanillo by Arman Lopez, the alleged NPA commander in the locality. Arman was not alone. His companions were "Jack, Vic, Gary, Basio, Juan Quiritan and Armingolo Quiritan." Arman shot Senillo with a pistol. Then accused Armingolo Quiritan finished the victim off with a knife thrust on the chest. Meanwhile, accused Juan Quiritan kept his shotgun pointed at the onlookers and ordered them to remain where they were. When it was all over and Senillo laid dead on the ground, Arman ordered the people to go home.[8]

Pacolanang also stated that he subsequently took shelter in the office of Sgt. Bulado from June 21, 1979 to January, 1981, but it was only in March, 1981 when he spoke to Sgt. Bulado about the killing of Senillo. His statement was later taken by Arturo Tuanda, the investigator from Jimalalud.[9]

Pacolanang made no secret of his ill-feelings for the Quiritan brothers. According to him, the two had intended to liquidate him. Pacolanang told the court that his daughter Evelyn was the estranged wife of Ernesto Quiritan, a son of Juan Quiritan. After the breakup, a conference was held wherein the Quiritan brothers brought with them some members of the NPA and demanded that Pacolanang return the P4,000.00 which Juan Quiritan had spent for the wedding.[10]

The other eyewitness, Atilano Sabanal, 21 years old, a janitor working at the municipal hall but assigned to clean the public market, testified that he was also at the "tabo-an" in the afternoon of June 20, 1979. He was only about five meters from where the crime was committed. He narrated that he saw the NPA Commander Arman Lopez

snatched the camera from the victim Senillo. Then Arman left briefly, to return with some armed companions. Among the men were the accused Quiritan brothers, each carrying a "paltik." The others carried bayonets.[11]

Sabanal could hear the exchange of words between Arman and Senillo. It seemed that Arman accused Senillo of being an informer of the PC, a charge which the victim denied. Arman then aimed his pistol at Senillo's forehead and threatened to kill him if he would not tell the truth. Arman began to count "one, two, three" and then a single shot rang out. Senillo slumped forward. The accused Armingolo went near the fallen victim, held his head and stabbed him with a ten-inch bayonet at the solar plexus.[12]

While the public execution was taking place, the rest of the armed group including Juan Armingolo trained their weapons at the people and ordered them "not to run." After the killing, they told the people to disperse.[13]

As Sabanal hurriedly left the scene, he ran into Pacolanang whom he knew since they were from the same locality.

As the last witness for the prosecution, Municipal Health Officer Arturo Velardo testified on his postmortem report. He stated that he examined the cadaver of the victim Senillo on July 24, 1979 and placed the time of death at one month earlier. The corpse bore an apparent stab wound on the chest but it could not be ascertained if, in addition, there were gunshot wounds because of the advanced state of decomposition. The cause of death was "hemorrhage due to wound at the left chest." [14]

On further questioning, Dr. Velardo admitted that he was not certain if the skull and bones he had examined were actually those of Senillo. He relied on the relatives, the station commander and the Police who declared that that was the body of Senillo.[15]

For the defense, Armingolo Quiritan, 43 years old, married, farmer, testified that he was at the "tabo-an" selling bread, cigarettes and dried fish on the fateful day of June 20, 1979. He disclaimed that he and his elder brother, Juan Quiritan, had anything to do with Senillo's death and that it was Arman Lopez, the "Kumander" of the NPA, who executed Senillo in front of the people. Armingolo did not deny that he and his brother Juan were among the crowd that witnessed the slaying. He saw Arman shoot Senillo once on the chest. Senillo fell down. Then Arman turned to them and said "No one should run even one." That was all Arman said and the crowd stayed, until they were ordered to disperse.[16]

Armingolo stated that the reason why Pacolanang had implicated the two of them was because they had become enemies on account of the failed marriage of his nephew and Pacolanang's daughter.[17]

Juan Quiritan, 48 years old, married, also a farmer, testified that he was present when Senillo was brutally slain by Arman. Arman had several companions but Juan denied that he and his brother were among them. They neither helped nor aided in Senillo's execution and Pacolanang and Sabanal did not tell the truth. Juan singled out Pacolanang whom he accused of deliberately falsely testifying against him and his brother because of a grudge arising from the separation of their children. Juan stressed that he and Armingolo agreed to testify in order to deny the crime and the acts imputed to them.[18]

In view of the gravity of the penalty for murder, the Court must exercise extreme caution to ensure that the accused is accorded justice. The evidence for the prosecution must be clear and convincing to overcome the constitutional presumption of innocence. If a reasonable doubt exists, then the verdict must be one of acquittal.[19]

In the instant case for review, the evidence for the prosecution is grossly insufficient to sustain the judgment of conviction. The belated entrance of Pacolanang and Sabanal as key prosecution witnesses, their inconsistencies

and contradictions on the witness stand and even the doubtful identity of the corpse unearthed in the forest of Sitio Irene have cast a serious doubt on the culpability of the Quiritan brothers. We agree with the position of the Solicitor General that an acquittal is called for.

The record offers no plausible explanation for the delayed appearance of Rafael Pacolanang and Atilano Sabanal. They were supposed to have seen the public execution of Jaime Senilo on June 20, 1979. And yet, their sworn statements surfaced much later in February-March, 1981 or only after the prosecuting fiscal had announced during the hearing of February 19, 1981 that his "very important witnesses" in the persons of Sancho Belando and Leonides Cabanag had recanted their earlier statements and that while he (the fiscal) had another witness "it would seem that the evidence would be circumstantial and not sufficient to prove the guilt of the accused." [20]

According to the prosecution, Sabanal and Pacolanang were at the disposal of the government since June, 1979 or soon after the killing of Senillo. Despite his declaration in court that he stayed in the office of Sgt. Bulado for one year and seven months, Pacolanang was not listed as a government witness in the original complaint filed in Jimalalud nor in the information. His undated written statement was sworn to before the circuit judge on March 10, 1981. [21]

As for Sabanal, he testified that he reported the slaying of Senillo to the Jimalalud mayor on June 25, 1979 but the good mayor has died since then and can no longer corroborate what Sabanal has declared. Sabana lived in the mayor's house up to the time he was called upon by Sgt. Bulado on February 28, 1981 to be a witness. He also stated that he was included in the party that exhumed the cadaver of Senillo; that he saw Sgt. Bulado practically every day from June 25, 1979 and yet like Pacolanang, his name was not listed as among the government witnesses in both the complaint and the information. His affidavit was taken for the first time on February 28, 1981. [22]

Altogether, the prosecution proffered no convincing explanation why two supposedly material witnesses were not presented to the police investigators. The almost two-year silence of Pacolanang and Sabanal may well give rise to the suspicion that they were ill-motivated and unworthy of credence. [23] And more so in the case of Pacolanang who had admitted often enough that he was "mad" at the Quiritan brothers.

Indeed, it is not only the unexplained delay in the witnesses' disclosure that has continually perplexed this Court. There are aspects in this case which defy reason and evoke disbelief instead of credence. Consider the following contradictions and inconsistencies in the testimonies of Pacolanang and Sabanal.

Pacolanang testified that he reported the incident to Sgt. Bulado on June 21, 1979 and stayed and lived in his office at the INP Station for one year and seven months or from June 21, 1979 to January, 1981 to escape liquidation by the two accused.

"Q:

Were you able to arrive in the office of Sgt. Burado that day on June 21, 1979?

"A:

I arrived.

"Q:

You reported to Sgt. Bulado?

"A:

I reported to Sgt. Bulado and asked help because I would be the next one to be killed after Senillo.

"Q:

When you went to the office of Sgt. Bulado who was then the Station Commander of Jimalalud. Was he alone or with somebody?

"A:

He had companions.

"Q:

How many were in the presence of Sgt. Bulado when you went there on June 21, 1979?

"A:

Many people. I do not know the names.

"Q:

What did you tell Sgt. Bulado when you arrived in his office in the presence of many people?

"A:

I said that Jaime Senillo was killed by Juan Quiritan and Armingolo Quiritan.

"Q:

What did Sgt. Bulado do, if any when he received that report from you that Jaime Senillo was killed?

"A:

He ordered for search.

"Q:

Who was to be searched?

"A:

Jaime Senillo.

"Q:

Was your statement taken by Sgt. Bulado?

"A:

No.

“.....

"Q:

From there where did you go?

"A:

I just stayed the whole day.

"Q:

The whole day of June 21, 1979?

"A:

I was there.

"Q:

You slept there on the night of June 21, 1979 in the office of Sgt. Bulado?

"A:

I passed the night.

"Q:

How many days did you pass the night in the office of Sgt. Bulado after reporting to him on June 21, 1979?

"A:

When I reported to him, it was one year and seven months.

"Q:

You mean you slept and stayed there in the office of Sgt. Bulado for one year, and seven months from June 21, 1979.

"A:

I was there because if I would go home, Armingolo Quiritan and Juan Quiritan will kill me." [24]

But upon subsequent questioning by the trial court, Pacolanang testified that he told Sgt. Bulado about the killing for the first time only in March, 1981 and that he did not stay in the office of the police officer but at the Philippine Constabulary headquarters.

"Court:

"Q:

You declared a while ago that you told Sgt. Bulado about the killing of Senillo only on March 1981, this year, you remember having said that?

"A:

In the month of March, I told them about the killing of Jaime Senillo that's why an affidavit was prepared.

"

.....

"Q:

Again, you told the Court a while ago that you only declared to Sgt. Bulado about the killing of Senillo in March 1981. You remember having said that?

"A:

I remember.

"Q:

Is this true that you only told Bulado for the first time about the killing in March 1981?

"A:

In the month of March.

"Q:

Now, you declared here in the previous hearing that you stayed in the office of Sgt. Bulado starting the month of June 1979 up to January 1981, you remember having said that?

"A:

I stayed in the PC only, I did not stay at Sgt. Bulado.

"Q:

In what establishment of the PC did you stay?

"A:

Wakan.

"Q:

So, it is not true as you declared previously that you stayed in the Municipal building in Jimalalud or in the Office of Sgt. Bulado for the period of one (1) year and seven (7) months?

"A:

I would only go there every week.

"Q:

Why would you go in the office of Sgt. Bulado every week?

"A:

Because I accompanied the PC. We used to go there to get supplies.

"Q:

During those times that you would go to the Municipal building in the office of Sgt. Bulado once a week for the period of one (1) year and seven (7) months, you never told Sgt. Bulado about the incident?

"A:

I did not tell him because I told the PC."[25]

Pacolanang, who finished only Grade One, proved to be an ineffective witness for the prosecution. Under extensive questioning by the trial court as well as the defense counsel, his answers were unresponsive and often downright confusing.

Witness Sabanal, on the other hand, vacillated as to the time when he initially informed Sgt. Bulado about the killing. In some parts of his testimony, he stated that it was on February 28, 1981 when he revealed to Sgt. Bulado that he had witnessed the execution on "tabo" day. It was also on February 28, 1981 when he was told by the police officer that he would be called upon to testify in the trial of the Quiritan brothers.[26]

But later, Sabanal contradicted himself. In another part of his testimony, he claimed that he spoke to the mayor about the killing of Senillo on June 25, 1979 and the mayor's father and brother were even present. Consequently, on June 30, 1979, he was summoned by Sgt. Bulado and brought to the municipal building where he was investigated.[27]

Sabanal also stated that he was among those who found the three cadavers in the forest of Sitio Irene. And yet, his presence was not mentioned by Sgt. Bulado who led the search party.[28]

The delay in producing the supposedly key witnesses, coupled with the generally weak and confusing testimonies given in court by Pacolanang and Sabanal cannot erase the impression that they were nothing but rehearsed witnesses whose statements were concocted in order to create a case for the prosecution. In a serious charge as murder, the guilt of the accused cannot be predicated on delayed and even inconclusive testimonies of alleged eyewitnesses which manifest signs of fabrication. Blanket acceptance thereof is not only injudicious but also foolhardy.

There are two other disturbing aspects in this case over which the Court cannot rest easy. One is the role played by Sgt. Bulado in implicating the Quiritan brothers in the brutal slay of Senillo. It must be recalled that Sgt. Bulado was the first witness to be presented by the prosecution on February 18, 1981. He spoke at length about the search and ultimately the discovery of the three decomposing bodies in Sitio Irene. When queried as to how they found out about the three corpses, Sgt. Bulado answered that they had received the information from the barangay captain of Campalanon.[29] He made no reference whatsoever about the June 20, 1979 killing at the public market in Jimalalud. To our mind, this is significant. It is now highly probable that in June, 1979, Sgt. Bulado knew absolutely nothing about the eyewitness accounts of Pacolanang and Sabanal and that it was only in February and March of 1981 when the prosecuting fiscal could not come up with any piece of evidence to link the killing to the two accused that Sgt. Bulado decided to utilize Pacolanang and Sabanal as state witnesses. Furthermore, the police officer was hard pressed to justify the continued detention of the accused in jail.

It was not difficult to persuade the would be self-proclaimed eyewitnesses. Pacolanang had a grudge against the Quiritans while Sabanal was an insignificant government worker who could not afford to say no.

Finally, whether or not the decomposed cadaver dug up in Sitio Irene was truly that of the victim Jaime Senillo has not been satisfactorily answered by the prosecution.

In all the foregoing, the prosecution has failed miserably in its task to prove the guilt of Armingolo Quiritan beyond reasonable doubt. It follows then that he must be exonerated.

WHEREFORE, accused-appellant Armingolo Quiritan is hereby ACQUITTED on reasonable doubt. His immediate release from confinement is ordered, unless he is being held on other legal grounds.

As for Juan Quiritan, his appeal is considered dismissed. The records of the instant case are ordered remanded to the court below for the prompt execution of the judgment of conviction against him but with the sole modification that the civil indemnity which he alone must pay to the heirs of the victim Jaime Senillo is to be increased to P50,000.00. The trial court shall issue a warrant for his recapture.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

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- [1] Criminal Cases Nos. 4286-4287; Records, p. 27.
- [2] TSN, February 18, 1981, pp. 5-6.
- [3] Records, pp. 39 and 190-192; TSN, February 19, 1981, pp. 2-4.
- [4] Records, pp. 45-47.
- [5] Records, p. 261.
- [6] Rollo, pp. 75-76.
- [7] TSN, July 1, 1981, p.14.
- [8] TSN, July 1, 1981, pp. 14-20.
- [9] TSN, *supra*, pp. 77-78.
- [10] TSN, *supra*, pp. 56-60, 102.
- [11] TSN, September 1, 1981, pp. 105-110.
- [12] TSN, *supra*, pp. 111-116.
- [13] TSN, *supra*, pp. 116-117.
- [14] Exhibit C, Records, p. 6; TSN, June 8, 1982, pp. 170-173.
- [15] TSN, *supra*, pp. 177-178.
- [16] TSN, May 5, 1983, pp. 3, 5-9.
- [17] TSN, *supra*, p. 9.
- [18] TSN, June 7, 1983, pp. 3 and 13.
- [19] *People vs. Cabacling*, G.R. No. 74352, June 6, 1989; *People vs. Leoparte*, G.R. No. 85328, July 4, 1990.
- [20] Records, pp. 109-192.
- [21] Exhibit B, Records, p. 178.
- [22] Exhibit A, Records, p. 177.
- [23] *U.S. vs. Cardona*, 36 Phil. 438.
- [24] TSN, July 1, 1981, pp. 28-31.
- [25] TSN, August 31, 1981, pp. 97-99.

[26] 26. TSN, October 8, 1981, pp. 124-126.

[27] TSN, *supra*, pp. 129-130.

[28] TSN, *supra*. p. 133.

[29] TSN, February 18, 1981, p. 5.

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