

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. IGMEDIO SANTIAGO, EPITACIO SANTIAGO, FLAVIANO SANTIAGO, DIOSDADO SANTIAGO, ELIAS SALMORIN, ADOLFO SALMORIN AND SALUSTI...*G.R. Nos. 12860-61. December 29, 1960*

Ponente: PAREDES, J.

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Prosecuted for murder and frustrated murder, the appellants were sentenced for homicide and serious physical injuries, as follows: In the case of homicide, taking into account the aggravating circumstance of superior strength and the mitigating circumstance of voluntary surrender, each to suffer an indeterminate penalty from 6 years and 1 day of prision mayor to 14 years, 8 months and 1 day of reclusion temporal, with the accessories of the law and to indemnify jointly and severally, the heirs of deceased Bias Bernal in the amount of P6,000.00 and to pay the costs; and in the serious physical injuries case, considering the same modifying circumstances, each to suffer an indeterminate penalty from 4 months of arresto mayor to 1 year and 1 day of prision correccional and to pay the costs. The weapons Exhibits t) to M were confiscated. They appealed to the Court of Appeals. The latter certified the cases to this tribunal, stating that the crimes committed are murder and frustrated murder and that the penalties imposable thereon are beyond its power to apply.

Accused Igmedio, Epitacio, Flaviano and Diosdado, all surnamed Santiago, are brothers, sons of one Anaclea Panaguiton by her second marriage, and Elias Salmorin, Adolfo Salmorin and Salustiano Santiago are close relatives of the Santiago brothers. The deceased Bias Bernal in G.R. No. L-12860 and Ciriaco Bernal, offended party in G.R. L-12861, are brothers, also sons of Anaclea Panaguiton by her first marriage. Tomas Santiago, now deceased, second husband of Anaclea Panaguiton, had been previously married to one Margarita Bernal, an aunt of the Bernal brothers. She died intestate leaving some real properties acquired during her marriage with the father of the Santiagos, but without any issue. The Bernals, believing that they had a right to inherit from their aunt Margarita Bernal, commenced Special Proceedings No. 1014 in the court of first instance of Iloilo, and had their elder brother Teodorico Bernal appointed as co-administrator, together with their mother Anaclea Panaguiton. The Santiagos, believing that they were the sole heirs of their deceased father Tomas Santiago, sought the revocation of Teodorico's appointment. Bad blood then existed between the two sets of brothers and their enmity flared up into violence sometime in October, 1953, when Ciriaco Bernal was waylaid by the Santiagos by reason of Bernal's gathering coconuts from the properties under administration.

The prosecution has established that the Santiagos and the Bernals were living in their respective houses in the barrio of Tarong, municipality of Carles, province of Iloilo. On July 3, 1954, Bias Bernal, Ciriaco Bernal and their nephew Gerardo Berrtal were engaged, with several others, by Victoriano Paglinawan to plant rice in the latter's field in their barrio of Tarong. They began planting early in the morning, and at about ten o'clock they were told by Victoriano Paglinawan to cease working and have breakfast. Thereafter, the Bernal brothers went to the house of Severo Salvidico to have a haircut, while their nephew Gerardo went to see his carabao pasturing in the field.

In so doing, Gerardo passed near the house of Epitacio Santiago and saw the seven appellants squatted and huddled in front of the house. When Gerardo was within a hearing distance from the group, he heard Igmedio Santiago say, "very soon there will be a 'velacion' (wake for the dead)". Sensing that the remark was meant for the Bernal, Gerardo tried to look for his uncles to warn them. Meantime, when the Bernal arrived at the house of Severo Salvidico for the haircut, they found that the barber was not in, so they retraced their steps towards the field of Victoriano. Ciriaco was then unarmed and Bias had a scythe girded on his waist, which he usually used in cutting coconut buds to extract "tuba". On their way, however, the seven appellants suddenly appeared, running towards them and brandishing their boloes and other weapons. The Bernal took to their heels, but were overtaken at a place where there were bamboo clumps and bushes, and there simultaneously attacked by appellants from different directions, Epitacio delivering the first blow on Bias Bernal's left face with a bolo, followed by an arrow shot by Diosdado. Ciriaco, on his part, was hit by Ignacio on the left arm and by Flaviano on the right ear which downed him. Ciriaco played possum, feigning death; whereupon appellants concentrated their attack on the wounded Bias, who died on the spot. At this juncture, Ciriaco seeing an opportunity for escape, sprinted towards the field where he timely met Victoriano Paglinawan about 30 yards away, and leaned on him. This deterred appellants from further pursuing him. Victoriano then took Ciriaco to town for medical attendance and to report to the police authorities.

Dr. Telesforo de los Reyes, the town medical officer, accompanied by the Mayor, a police sergeant and a sanitary inspector, on the same day, repaired to the spot where Bias died and found the body lying on one side, with an arrow stuck on the back which he pulled with difficulty. He found nine serious wounds on the body, two of which were mortal (Exhibit A). He likewise certified to the nine different injuries sustained by Ciriaco, which took some 40 to 50 days to heal (Exhibit C).

Appellants, on the other hand, presented an entirely different picture of the incident. Their version, as related by Flaviano and Diosdado, is as follows:

That morning, while Flaviano was resting in his house together with Igmedio and Elias after planting rice in his own field, Salustiano came warning them that the Bernal brothers were coming, both heavily armed. After pulling a mat to cover the door, Flaviano peeped and saw that Bias really had a bolo in his left hand, another longer one in his right, and a scythe on his waist; while Ciriaco had a fighting bolo on his waist, a "palma brava" club in his left hand, and a spear on his shoulder. Ciriaco then shouted at Flaviano to come down and fight, but as Flaviano and his companions inside the house did not make any move, the Bernal then slashed the mat and entered the house; whereupon Elias, Salustiano, Flaviano and Igmedio jumped out and scampered away, Flaviano following Elias and Salustiano, while Igmedio took a different direction. Flaviano, thinking that he might be overtaken without any body helping him, changed his mind and ran, with the Bernal close to his heels, to the direction of the house of Epitacio which was about 400 brazas away. He saw his other brother Diosdado planting rice some 50 meters away, so he shouted at him for help, who in turn got a piece of wood and ran to the rescue of Flaviano. While the four were thus running, Bias threw his short bolo at Flaviano, hitting the latter on the back. Whereupon Flaviano picked it up and faced Bias. Bias then started to hack him with the longer bolo, but he parried the blow, causing Bias to drop it. Then Bias drew his scythe and again tried to slash him, but Flaviano parried it again, and Bias became weak. At this instance, Bias called out his brother Ciriaco, who was then fighting with Diosdado, for help. So Flaviano shoved Bias who fell on his back. Ciriaco then detached from his fight with Diosdado and went to succor Bias. Diosdado, in turn, followed Ciriaco and at the same time alerting his brother Flaviano, saying, "Nene, be careful, Ciriaco is going to you." Ciriaco then struck Flaviano which the latter parried, and then Flaviano countered with his bolo. At this time, Diosdado clubbed Ciriaco hitting the latter on the left arm and right ear. After receiving these blows, Ciriaco said, "I am giving up; I don't want to fight anymore."

Appellants presented Clementina Bernal, full-blood sister of the Bernals. She said that when she saw her brothers Bias and Ciriaco chasing Flaviano, she followed them so as to dissuade her brothers from fighting and she even saw Flaviano from afar wresting the scythe from Bias, but that when she overtook them, Bias was already bathed in his own blood, kneeling, and about to die. Anacleta Panaguiton stated that when she refused to give the Bernals their claim in the inheritance, Bias had intimidated her that they might obtain their share "through the flow of blood". Dr. De los Reyes testified that he found two contused and three lacerated wounds on Flaviano that could have healed from 6 to 8 days (Exh. 13); and one contused and two lacerated wounds on Diosdado that could have healed from 5 to 7 days (Exh. 14). The doctor admitted, however, that these contused and lacerated wounds found on both brothers were merely the result of physical struggle, such as wrestling and not caused by any weapon.

The case hinges on the question of credibility. We have examined the record with meticulous care, and have come to the conclusion that the version of the defense, does not deserve any credence.

The four medical certificates on record are self revealing. Whereas the Bernals received wounds inflicted by sharp instruments like bolo, as asserted by Dr. De los Reyes, the Santiagos, on the other hand, merely showed contusions and lacerations which, according to the same doctor, were simply the result of wrestling or caused by fist, and not by any weapon, blunt or otherwise. This being the case, the said medical certificates confirm the version of the prosecution that the Bernals only fought with their bare hands, as against the onslaught of appellants who were all armed with different weapons. Were the Bernals really armed, as claimed by the Santiagos, at least Flaviano or Diosdado, or any of the appellants, for that matter, would have received some scratches caused by either bolo, scythe, spear or "palma brava" club with which the Bernals were allegedly armed. It is claimed by the defense that Flaviano was the only one who fought with the deceased Bias, while Ciriaco and Diosdado were fighting and that Flaviano merely parried one bolo blow and one scythe slash from Bias, and then shoved the latter in order to face Ciriaco who was coming to aid the deceased. If this were true, then said deceased could not have received nine wounds, considering that Flaviano did not hit the deceased even once and that Diosdado was only armed with a piece of wood which he picked at random in the field, moments before. This once more confirms the version of the prosecution that the other appellants participated directly in the killing of the deceased and near-killing of Ciriaco. Moreover, Ciriaco's testimony dovetails with that of Victoriano Paglinawan. The latter told the court that he met Ciriaco, wounded and weak, running to him saying that he and his brother were intercepted by seven armed men. Paglinawan, only neutral witness in this case, for not being related to either the Bernals or the Santiagos, asserted that when the seven appellants, who were some 30 brazas away, saw that Ciriaco was already leaning on him, they desisted from their pursuit. The defense was not able to offer any explanation regarding the arrow which was found embedded on the back of the deceased. On the other hand, prosecution witness Gerardo Bernal positively declared that such arrow was shot by Diosdado. Again, when Flaviano, Diosdado, Epitacio, Igmedio and Salustiano (Saling) Santiago, surrendered to police Sgt. Crisanto Carmen, they told him they fought with the Bernal brothers.

The testimony of Anacleta Panaguiton, that it was the Bernals who had a grudge against the Santiagos on account of inheritance, does not help the cause of the appellants, as it is undisputed that there had been a mutual pent-up hatred against each other which erupted in open violence when Ciriaco was waylaid by the Santiagos, eight months prior to the slaying of Bias Bernal. The story of Clementina Bernal who sided with the Santiagos, against her full-blood Bernal brothers, is hard to believe, considering that her testimony is in direct contrast with her written statement (Exhibit O) made before the chief of police on July 7, 1954, when the incident was still fresh in her mind. In said written statement she said that while she was planting rice in the field, she heard shouts coming from behind the bamboo clumps about 300 meters away; that when she approached the place and was at a distance of ten meters, she saw her deceased brother Bias already bathed in blood, kneeling, with several wounds on his body and an arrow sticking on his back; that she saw Igmedio, Epitacio, Flaviano and Diosdado, walking

fast heading to town, and likewise saw Adolfo Salmorin, Elias Salmorin and Salustiano Santiago equally walking fast toward their houses; and that while she was returning home, she also saw her brother Ciriaco, aided by Victoriano, walking in another road towards the town. Although she attempted to repudiate this statement, by alleging that the mayor did not faithfully translate its contents in the Visayan dialect, we have no ground for believing that said mayor would capriciously and deliberately distort the translation.

The simple denial made by the other appellants regarding their participation in the crime at bar can not overcome the direct, positive and straightforward testimony of the surviving victim Ciriaco Bernal and eyewitness Gerardo Bernal, who narrated convincingly the bloody manner with which the weaponless Bernals were surrounded and attacked by the armed appellants.

The fact that the seven appellants were seen gathered together in front of the house of Eпитacio Santiago and one of them was heard to have remarked that soon there would be a wake for the dead, strongly evinces conspiracy among them, specially when these same appellants, moments later, in unison executed acts of violence.

With the exception of Elias Salmorin and Adolfo Salmorin, all the appellants surnamed Santiago, voluntarily surrendered to the police authorities right after the crime was committed. The slaying of Bias Bernal was attended by the qualifying circumstance of treachery (alevosia). Abuse of superior strength, was also shown but it is absorbed by the circumstance of treachery.

The five appellants surnamed Santiago, in the murder case, are, therefore, sentenced to suffer each an indeterminate penalty ranging from 6 years, 8 months and 1 day of prision mayor to 14 years and 8 months of reclusion temporal; and appellants Adolfo Salmorin and Elias Salmorin, to suffer each reclusion perpetua.

In the frustrated murder case, committed on the person of Ciriaco Bernal, the Santiagos are hereby sentenced to suffer each an indeterminate penalty ranging from 2 years, and 4 months of prision correccional to 7 years, and 4 months of prision mayor; and the Salmorins, to suffer each an indeterminate sentence ranging from 6 years, 8 months and 1 day of prision mayor to 12 years, 10 months and 21 days of reclusion temporal.

With the modifications above indicated, the decision appealed from hereby is affirmed in all other respects.

Paras, C.J., Bengzon, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, and Dizon, JJ., concur.

Judgment affirmed with modifications.

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