

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FELICIANO RAMOS ALIAS CIANO, DEFENDANT AND APPELLANT.

*G.R. Nos. 17402-03. August 31, 1963*

Ponente: BENGZON, C.J.

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### BENGZON, C.J.:

These are cases wherein Feliciano Ramos alias Ciano was charged before the Court of First Instance of La Union with the crimes of illegal possession of firearm and murder.

The criminal complaint for possession states,

"That on or about the 20th day of February, 1959, in the Municipality of Luna, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the said accused being then a private person and without any lawful authority did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control a firearm "Pistol" cal. .45, Remington with Serial No. 1009808 without first having obtained the necessary license or permit to possess the same."

Whereas the information filed for the crime of murder alleges:

"That on or about the 20th day of February, 1959, in the Municipality of Luna, Province of La Union, Philippines, the above-named accused armed with a firearm, with evident premeditation and treachery and with intent to kill, did then and there willfully, unlawfully and feloniously shoot one Ricardo Nodora with his firearm several times thereby inflicting upon the latter several gunshot wounds on the different parts of his body, to wit: \* \* which wounds directly caused the instantaneous death of said Eicardo Nodora."

As the two offenses arose from the same incident, the prosecution and defense agreed to have a joint trial. The government presented the following witnesses:

1. Dr. Veranio Tongson, who performed the autopsy on the corpse of the victim Ricardo Nodora.
2. Saturnino Velasco, who testified that in the afternoon of February 20, 1959, at about 6 o'clock p.m., he was in the beach of Luna, barrio Rinos, with his fellow fishermen, among whom was the late Ricardo Nodora, when all of a sudden he heard an explosion like that of a firecracker; and when he looked around, he saw the accused Feliciano Ramos holding a revolver just about two meters behind the deceased Ricardo Nodora, shooting the later three times in quick succession. As a result of the shooting Ricardo Nodora fell and died. The accused ran away from the scene.
3. Antonio G. Bautista, Justice of the Peace of Luna, La Union, who testified that on February 28, 1959, the accused Feliciano Ramos together with some Constabulary soldiers went to his office bringing the affidavit Exhibit B-1 to be subscribed and sworn to; that when the document was presented to him, he found out that it was a confession of a crime, so he explained to Ramos that nobody could force him to subscribe to the affidavit if the contents were not true, explaining further that once he has signed it, it will be used against him in the future; that nevertheless, the accused decided to have it subscribed and sworn to before him. This witness upon reading the

questions and answers in the Ilocano dialect also asked the accused if there were any mistakes, but the accused answered: none. Witness further asked the accused if somebody forced him to make the confession, and the accused's answer was that he did it voluntarily.

The same witness, Antonio G. Bautista, also identified Exhibit "D", which is a confession of accused Feliciano Ramos regarding possession of the gun .45 caliber, Remington, with serial number 1009808 (Exh. F), used in the killing of Ricardo Nodora. This confession was likewise voluntarily subscribed and sworn to by the accused before him on February 23, 1959.

4. Pedro O. Arciaga, Justice of the Peace, San Fernando, La Union, testified that on February 21, 1959, the accused Feliciano Ramos together with some PC (Constabulary) soldiers came to his office to have a certain affidavit (Exhibit "B") subscribed and sworn to; that when he found out that the document was about a confession of guilt to a crime of murder, he asked the accused if there is truth to the confession and also if it was done voluntarily; that the answers were in the affirmative.

The same witness Pedro O. Arciaga also identified Exhibit "D", which is a confession by accused Ramos regarding ownership of the gun, .45 caliber, Remington with serial number 1009808 Exhibit F, used in the killing of Ricardo Nodora. This affidavit was also freely subscribed and sworn to before him on February 22, 1959 by the accused.

5. Bernardo Ducusin, a PC soldier, stationed at San Fernando, La Union, declared that on February 20, 1959, at about 8:00 p.m., they received a report stating that Ricardo Nodora had been shot to death by Feliciano Ramos. He said that he was ordered to effect the arrest of said assailant. So with some PC soldiers, they went to the house of Ramos only to be told by the mother that Ramos was not around. The following morning, he again went to the house of Ramos and finding him there, arrested him. Then he presented the prisoner to Sgt. Cerezo who was in-charge.

6. Jose G. Fernandez, Chief of the Technical Laboratory and formerly Chief of the Ballistic and Document Section, Philippine Constabulary, declared about the results of his examination of some bullets.

Feliciano Ramos, the accused, interposed an alibi, which Maximino Narito attempted to corroborate. He also tried to show that the confessions had been the result of physical violence inflicted upon him while in the custody of the police authorities.

After such joint trial, the court found Feliciano Ramos guilty on both charges. Accordingly, it sentenced him to undergo imprisonment for three (3) years for illegal possession of firearm; and for the murder, he was sent to prison for life and ordered to indemnify the heirs of the deceased Ricardo Nodora in the sum of Four Thousand Pesos (P4,000.00) and to pay the costs in both cases.

Here the accused-appellant argues that the lower court erred in admitting and giving probative value to the confessions Exhibits "B" and "D" and in not declaring that the same had been obtained thru violence by the Constabulary officers. Explaining the circumstances surrounding the signing of said Exhibits, he said he had to sign them for the reason that he was maltreated by the Constabulary officers particularly Sgt. Unciano who slapped him on the face and Sgt. Gutlay who squeezed a piece of cloth soaked with varnish into his mouth and punched him in the belly—all of which, according to him, was sufficient to cause any man to confess whatever the officers would want him to confess. He continued that when these exhibits were presented to both justices of the peace to be sworn to, these three Constabulary officers namely r Peralta, Unciano and Cerezo (or at least one of them) were present.

Rebutting such assertions, however, the said Genaro Gutlay, Nicolas Peralta, Ponciano Unciano and Melanio

Cerezo, uniformly denied the claim of maltreatment. And two justices of the peace, namely, Judge Arciaga of San Fernando, and Judge Bautista of Luna, affirmed before the trial court that the accused voluntarily swore to his statements Exhibits "B" and "D". Said court's finding of voluntariness should, therefore, be upheld.

Indeed, if it were really true that Exhibits "B" and "D" had been secured by force and intimidation, then why did he not reveal such fact to the two judges, before whom, he was certainly at liberty to disclose whatever injustice might have been done to him? He had his chance not only once or twice, but four times (Exhibits "B" and "D" were subscribed and sworn to twice, before Judge Arciaga and the second time, before Judge Bautista); and yet he admitted to them the truth of the contents of the respective written statement, even as he freely signed the same; the contents thereon having been read to him in his own native Ilocano dialect.

Interposing an alibi, the accused-appellant Feliciano Ramos declared that he, Maximino Narito and others were fishing at sea at the time of the shooting. With the group, he said, he left Luna at around four o'clock in the afternoon of February 20, 1959, only to return home at 6 o'clock the following morning.

We agree with the Solicitor-General that the trial court did right in giving full credit to the testimony of eyewitness Saturnino Velasco, who positively identified and recognized the accused-appellant Feliciano Ramos as the .gunman. That the eye-witness could not recall the attire of the killer, is unimportant, considering that

"In crimes of similar nature, where the blows are struck faster and in less time than it takes to think, the question relative to the clothing- worn by the aggressor constitute a very insignificant detail to the eye-witness for the reason that his attention is focused on the attack." (People vs. Layos, 60 Phil. 224, 227.)

Needless to repeat, alibi is considered a weak defense, not only because of the facility with which it is fabricated, but also because it is so easy for witnesses to get confused as to dates. Narito disclosed no particular fact that made him recall that it was precisely on the twentieth and not on the nineteenth that they went fishing. And in a long line of decisions promulgated by this Court, it is settled that alibi cannot prevail when there is positive identification of the accused by eyewitness—in this case by Saturnino Velasco, whose testimony could not be doubted because no motive or reason has been shown for him to falsify. Velasco, it appears, is neither related to the deceased nor personally interested in the case. And what is significant, Velasco immediately pointed to Ramos as the assassin in an affidavit before Acting Justice of the Peace Olvena. (Exh. C.)

Now, for the firearm Exhibit F which the accused surrendered to the town mayor, no license has been presented. The conviction for illegal possession must, therefore, stand. But the penalty should be modified in accordance with the Solicitor-General's recommendation. So the appellant is hereby sentenced for unlawful possession of firearm to not less than two (2) years nor more than five (5) years in prison. (Sec. 2692, Revised Administrative Code as amended by Republic Act No. 4). The gun is forfeited, as ordered by law. As to the murder—the victim was shot from behind—the penalty imposed by the court below accords with the provisions of the statute. (Art. 248, Revised Penal Code)

Wherefore, as herein modified, the appealed judgment is affirmed with costs. So ordered.

Padilla, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, J.J., concur.

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