

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HERMENEGILDO RAMIREZ @ MIJER, FELIPA RAMIREZ, APOLONIO
BAGISPAS, CARLITO MAGHINAY AND CRISTITO CEFERINO,
ACCUSED, HERMENEG...**

G.R. Nos. 65345-47. January 31, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

Five persons were charged with two murders and one frustrated murder in three separate informations filed in the Regional Trial Court of Zamboanga del Norte.[1] One is still at large and has not yet been tried.[2] Another was discharged on motion of the prosecution and became a state witness.[3] Of the remaining three, who were all convicted, one has not appealed and is now serving his prison sentence.[4] We are concerned here only with the accused-appellants, the Ramirez spouses, who were found guilty as principals by inducement.

There is not much need to dwell on the facts of the attack on Paterno Ramirez and his family in the evening of October 31, 1980, in his house at the municipality of Roxas in the aforesaid province.[5] By his decision not to appeal his conviction, Carlito Maghinay has impliedly admitted that it was he who, without warning, stabbed Paterno while they were watching Apolonio Bagispas and Petronilo Sumambod playing "dama" after they had all partaken of supper.[6] Cristito Ceferino, who has not yet been apprehended, was the person who later stabbed to death Jesusa Ramirez, Paterno's wife, and their six-year old grandson, Ian Jay Regencia, according to Maghinay.[7] Because some articles were taken from the house after the stabbings, the accused were first charged with robbery in band with double homicide and frustrated homicide.[8] But the informations were later amended to charge the present offenses after further investigation disclosed evidence to support the new and more serious allegations.[9]

The spouses Hermenegildo Ramirez and Felipa Ramirez were not present at the scene of the crimes and there is no averment that they had actually participated in the attack on the three victims. Nevertheless, the trial court, after a painstaking and exhaustive consideration of the evidence, found that they were responsible for instigating the offenses and sentenced them accordingly.

This finding was based on evidence introduced at the trial of bad blood between the accused-appellants and Paterno Ramirez. Incredibly, Hermenegildo and Paterno are brothers. As sometimes happens among even the closest kin, the brothers had a long-standing dispute over certain properties originally belonging to their father and later inherited by them and their mother, who sold her share to Paterno. No actual partition was made, which probably caused the boundary conflict between the brothers, leading Hermenegildo at one time to complain to the Ministry of Agrarian Reform[10] and Paterno later to seek the assistance of the Presidential Assistance Commission on Land Problems in Dipolog City.[11] The solutions offered by these offices were apparently inconclusive and in any case did not iron out the brothers' differences. There is evidence that Hermenegildo threatened his younger brother's life[12] and Paterno himself testified at the trial that Hermenegildo on one

occasion challenged him to a fight, daring him to come down from his house.[13]

The Court is satisfied, as the trial court was, that enmity existed between the two brothers that could have provoked the alleged desire of Hermenegildo and his wife to have Paterno killed. The whole barangay was aware of this quarrel between the two. The question, though, is whether such hostility was strong enough to lead to the instigation supposedly made by the accused-appellants for the murder of Paterno and his wife and if there is sufficient evidence to prove that such inducement was actually made.

The Court commends Judge Simplicio M. Apalisok of the Regional Trial Court of Zamboanga del Norte for the considerable time and study he has devoted to this case. Even so, it cannot share his conclusion that the accused-appellants are guilty of the crimes imputed to them.

The evidence against them is built upon shifting sands. The testimony of the witnesses who claimed he had sought to induce them is unreliable and incredible. The circumstantial evidence which the trial court considered so significant is in our view far-fetched and unconvincing. In its totality, the case against the accused-appellants is not strong enough to overcome the presumption of their innocence and establish their guilt beyond reasonable doubt.

The details of the attack in the evening of October 31, 1980, as related by the prosecution witnesses, are not in issue here. The accused-appellants were not in Paterno's house at the time the violence was committed by Bagispas and his two companions. This appeal relates only to the alleged role of Hermenegildo Ramirez and his wife Felipa in inducing the commission of the crimes against Paterno and his family.

We begin with the testimony of Apolonio Bagispas, who was discharged so he could testify against his co-accused. He is the only one who made a direct declaration of the inducement allegedly made by the accused-appellants that led to the killings in Paterno's house.

According to him, he first joined the accused-appellants' household as their helper in July 1980.[14] Before that they had not known each other. He was seventeen years old at the time, a Subano coming from the mountains. Beginning August, or after only one month, the spouses were already asking him to contact persons who could be hired to kill Paterno and his family.[15] They kept nagging him to do so, he says, until he finally decided to comply - remarkably, after he had already left their employ.[16] Thus, on October 29, 1980, he went back to the mountains and talked to Carlito Maghinay, telling him they would be paid P3,000.00 for the "mission to kill," as he put it.[17] Maghinay said later in his own testimony that he thought about it and after some time agreed.[18] Cristito Ceferino, whom Maghinay contacted later, decided to join them in the execution of their plan. They left for the lowland the following day for this purpose.[19]

There are suspicious flaws in this person's testimony that, strangely, the trial judge did not notice. To begin with, Apolonio was only a houseboy - and newly-employed at that - yet he insists the Ramirez spouses readily took him into their confidence and unhesitatingly broached to him their plan to murder Paterno and his family. Perhaps they might have done this if they had known him long enough, but he says he was asked to look for Paterno's killers after he had been in the accused-appellants' house for only one month. This certainly would not be enough to insure a person's loyalty or at least his discretion. Such feeling could hardly have been engendered either by the spouses' treatment of Apolonio, who says he had not been paid one month's wages and that he did not like Hermenegildo's character.[20] This was the reason he decided to apply for work with Paterno, who accepted him. Curiously, it did not occur to him to warn Paterno, if only out of gratitude, of the accused-appellants' plot against their brother.

There is also Apolonio's supposed persuasion of Maghinay and Ceferino to commit the murders for the reward of

P3,000.00, as corroborated by Maghinay at the trial. Apolonio was only a seventeen-year old boy, and yet Maghinay, who was almost double his age, believed him right away, as so did Ceferino. Maghinay and Ceferino did not know Hermenegildo and Felipa Ramirez, but they believed Apolonio when he said the couple would pay the three of them P3,000.00 later. Apolonio himself had yet to collect his monthly wage of P60.00, but he believed the delinquent couple had the money to pay him and his companions P1,000.00 each. Maghinay and Ceferino had not been paid a single centavo in advance from the unknown masterminds, yet they were ready to do the couple's bidding on the strength alone of a seventeen-year old's promise that they would be paid after the deed was done. In fact, when they passed the spouses' house on the way to Paterno's on that fatal night,[21] neither Maghinay nor Ceferino thought of confirming the contract with the accused-appellants or getting their assurance that they would pay the contract price. The two co-plotters simply believed everything the teen-ager told them and did not even bother to verify from the accused-appellants, whom they could easily approach, if it was true that they had ordered the deadly task.

The other witness introduced by the prosecution to support its mastermind theory was Daniel Vidal, a neighbor of the accused-appellants. His strange testimony is that Hermenegildo and his wife visited him at his home sometime in October and asked him point-blank to kill Paterno and his family, offering him a fee of P100.00. P100.00, no more. He refused, but three days later they were back with the same offer - the fee was not even increased - which he again rejected.[22]

Why the accused-appellants should call on this witness and seriously make their alleged request is something that boggles the mind for sheer incredibility. The offered price is itself ridiculous. Moreover, Vidal is a farmer-fisherman, to all appearances a peaceful law-abiding person. As he is not a reputed killer or at least notorious as a "maton," he is probably the least imaginative person in the world, if not, worse, a liar. Worth noting, to explain Vidal's motive, is Hermenegildo's testimony that he had earlier threatened to file a complaint against this witness when his carabao ate Hermenegildo's plants.[23]

So we are asked to believe that an ordinary farmer-fisherman, without any experience or reputation in thuggery or murder, was seriously asked to snuff out the lives of three persons for the princely sum of P100.00, which he immediately rejected. And as curious as these occurrences were, he declared on cross-examination that he did not report the matter to Paterno, who was also his neighbor, or to the authorities, perhaps thinking the offer to be of no particular consequence.[24]

The trial court also gave ready credence to the testimony of Sofronio S. Antiquina, a policeman, who declared that when he passed by Hermenegildo's house on the way to the scene of the crime, the latter appeared unconcerned about what had happened to his brother. Asked why they did not go to help Paterno and his family, both the accused-appellants allegedly answered, "We are trying to avoid because we are enemies." [25] Hermenegildo and Felipa denied making these statements, insisting that they had gone to Paterno's house in the morning of November 1, 1980, and that the former had himself stayed to watch the house while Paterno was being taken to the hospital.[26] But the trial court discarded this testimony. Believing Antiquina, it considered Hermenegildo's conduct unnatural as he seemed to be more interested in the safety of Paterno's house than in his brother's life.

Much importance was also placed on the testimony of Esteban Alfaro who said Hermenegildo admitted to him that he had commanded Apolonio Bagispas to kill Paterno.[27] The trial court believed this witness, also because, as it observed, his attitude was unnatural. The Court notes though that Alfaro was not on the best of terms with his parents-in-law, having been earlier reproached for a business transaction and probably still resented for his eloping with the accused-appellants' daughter whom he married only after they had begotten four children.[28] Even in the morning of the discovery of the crimes, before the alleged admission of Hermenegildo, Alfaro relates that he and his father-in-law hardly talked to each other.[29]

The Court makes the same observations on the testimony of Carlito Maghinay regarding the instigation allegedly made by the accused-appellants. It is worth repeating that he had not known them before the stabbings and yet was willing to trust them for the payment of the contract price. Not a single centavo of this fee had been paid in advance and, to strain credibility further, part of it was to be taken from the amount of P1,500.00 which Apolonio promised they would find - and steal - in Paterno's house.[30] That would effectively reduce the killers' fee to P1,500.00, but the plotters apparently did not mind, choosing to be overly generous to the masterminds, who were perfect strangers to them. It is also a mark of Maghinay's probity as a witness that when asked if he knew it was a serious crime to kill a person, he replied quite blandly: "I do not know." [31] At the time he made this startling statement, he was thirty-two years old.[32]

Interlocking or not, the extrajudicial confessions taken from Bagispas and Maghinay are worthless scraps of paper that do not deserve the attention of the Court. These confessions were obtained without observance of the rights guaranteed by the Constitution to a person under custodial investigation and so should be rejected outright. Confessions obtained in violation of what is now Article III, Section 12(1) of the Constitution[33] are not admissible in evidence against the declarants and much less against third persons, like the accused-appellants in this case. Police and prosecutors are reminded that such statements are completely useless except possibly as evidence against them for violation of the suspect's rights.

From the evidence of record, the Court finds that the crimes committed were, as originally charged, robbery in band with double homicide and frustrated homicide. These were committed only by the admitted culprits, Bagispas and Maghinay, and possibly Cristito Ceferino, on whom we reserve judgment pending his arrest and trial. The instigator of the attack was Bagispas, who informed his companions of the money in Paterno's house and persuaded them to commit the robbery with him. The fact that several articles of value were taken after the attack on Paterno and his family is not denied. Their failure to find the P1,500.00 in the house (if that is true) does not detract from their real purpose or alter the nature of the offenses, which have been aggravated by the two homicides and the frustrated killing.

It appears that Apolonio Bagispas was the real mastermind. It is believable that he persuaded the others to rob Paterno, not to kill him for a promised fee. Although he did not actually commit any of the stabbings, it was a mistake to discharge Bagispas as a state witness. All the perpetrators of the offense, including him, were bound in a conspiracy that made them equally guilty.[34]

The accused-appellants are, in the view of the Court, the victims of a hostile community sentiment blown out of proportion and allowed, unfortunately, to influence the decision of the trial court. It is obvious that the Ramirez spouses are not the most popular couple in their barangay and have incurred the animosity not only of their own brother Paterno but also of their son-in-law Alfaro and their neighbor Vidal, who all testified against them. When Apolonio sought to explain the crimes by saying he had been "commanded" by the accused-appellants to kill Paterno and his family, the authorities were quick enough, if not eager, to believe him and to "develop" their new theory of the crimes. Witnesses were easily available to testify that Hermenegildo and his wife had induced the other three accused not only to rob but to kill their proposed victims. The original charge was discarded, to make the accused-appellants guilty as principals for instigating the double murders and the frustrated murder.

The well-known feud between the Ramirez brothers was enough to fan the embers of suspicion against the accused-appellants. Soon it was an uncontrollable fire. Whispered rumors became shouted fact. Conjectures became conclusions. The unguarded comment became a deliberate confession. Innocent acts became sinister schemes. Words spoken in anger became coolly calculated commands to murder and destroy. The accused-appellants found themselves facing not only the authority of the law - which was not so bad for this was a just inquisitor - but the prejudice of an aroused townspeople. This was a more dangerous adversary because it was

an unreasoning accuser, feeding on their revulsion to the crimes committed and their resentment for the accused-appellants whom they had already condemned.

Murder among blood brothers is unnatural, but the trial court was quick to believe it. When Antiquina testified that the spouses showed no interest in the attack on Paterno and his family, the judge also chose to believe him, observing that such lack of concern was also unnatural. When Alfaro also took the stand for the prosecution, the trial judge, while observing that it was unnatural for a son-in-law to testify against his parents-in-law, believed him just the same. The conduct of the Ramirez couple in inducing the commission of the offenses and the readiness of the other accused to comply with their persuasion are also clearly unnatural but the trial court accepted Bagispas' testimony without question. The trial court accepted all of these precisely because they were unnatural, holding in effect that it was this quality that made them believable.

The direct testimony linking the accused-appellants to the offenses admitted by Bagispas and Maghinay is, to repeat, flawed and unreliable. The circumstantial evidence is even weaker. The motive, which the prosecution has taken such pains to establish, has not been shown to have provoked the alleged instigation. At any rate, motive alone is not proof of crime, and much less in this case where the alleged assailant and his victim are brothers of the full blood. If it is true that the accused-appellants showed no interest in the tragedy that had befallen Paterno and his family, this fact alone, or even in relation to the other evidence against them, is not sufficient to convict the Ramirez spouses. If, as they admitted, they did not attend the novena for the dead Jesusa and Ian, it was because they were then already feeling the people's suspicion against them and wanted to avoid their silent accusations. Their absence was not unnatural, as the decision would consider it, but in fact the most natural thing to expect in the circumstances. Even assuming that Hermenegildo's resentment against his brother was hardly affected by Paterno's misfortune, that attitude alone, deplorable as it may be, is not enough to convict him and his wife. Lack of love for a brother does not translate to a desire to kill him in the absence of the most convincing evidence.

And there's the rub. The prosecution has failed to establish that evidence and so to overcome the constitutional presumption of innocence to which the accused-appellants are entitled. In the case at bar, the Ramirez spouses are confronted not so much with legally admissible and believable proof of wrongdoing as by the charged emotions of a community that apparently has already pronounced their guilt on the strength of an old quarrel and the testimony of a young culprit. This is not enough. There are whispers of doubt about their guilt that the prosecution, for all its efforts, has failed to still. That doubt must set them free.

WHEREFORE, the appealed decisions are REVERSED as to the accused-appellants, who are hereby ACQUITTED and ordered released from custody. This decision is immediately executory. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 11-13.

[2] Ibid., pp. 13-14.

[3] Id., p. 14.

[4] Per information given by the Custodial Personnel of the Bureau of Prisons.

[5] TSN, March 12, 1981, pp. 427-434.

- [6] TSN, August 8, 1983, p. 52.
- [7] Ibid., p. 58.
- [8] Original Records, p. 17.
- [9] Rollo, pp. 11-13.
- [10] TSN, January 5, 1982, p. 376.
- [11] TSN, April 1, 1981, p. 475.
- [12] TSN, March 12, 1981, p. 426.
- [13] Ibid., pp. 424-425.
- [14] TSN, March 11, 1981, p. 84.
- [15] Ibid., p. 115.
- [16] Id., pp. 115-117.
- [17] Id., p. 85.
- [18] TSN, August 8, 1983, p. 47.
- [19] TSN, March 11, 1981, pp. 85-87.
- [20] Ibid., pp. 109, 113-114.
- [21] TSN, August 8, 1983, p. 54.
- [22] TSN, March 12, 1981, p. 461.
- [23] TSN, January 6, 1982, p. 387.
- [24] TSN, March 12, 1981, pp. 461-462, 468-469.
- [25] TSN, April 13, 1981, p. 307.
- [26] TSN, January 5, 1982, p. 369.
- [27] TSN, March 11, 1981, p. 165.
- [28] TSN, January 6, 1982, p. 79; March 11, 1981, p. 180.
- [29] Ibid., pp. 161-162.
- [30] TSN, August 8, 1983, pp. 58-59.
- [31] Ibid., p. 50.
- [32] Id., p. 44.
- [33] Article IV, Section 20, 1973 Constitution.
- [34] *People v. Liza*, 152 SCRA 318; *People v. Serante*, 152 SCRA 510; *People v. Rondina*, 149 SCRA 128; *People v. Veloso*, 148 SCRA 60; *People v. Rojas*, 147 SCRA 169.

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