

FIRST DIVISION

[G.R. No. 110515, July 18, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VALENTIN MATIBAG Y ALDAY AND WENCESLAO CASTILLO Y
ABITRIA, ACCUSED-APPELLANTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Manuel Alcala, Eligio Bautista, Wenceslao Castillo, Dominador Ortiz and Valentin Matibag were charged with murder in an Information^[1] that reads:

"That on or about November 8, 1990 at around 8:30 am at the Capistrano Village, Lucena City and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another and with the aggravating circumstances of for a consideration of a price, reward or promise and with advantage taken by the accused of their public positions and with the use of a motor vehicle and with treachery and evident premeditation did there and then wilfully, unlawfully and feloniously shoot and kill Rufino Carlos with the use of a firearm, a Colt .45 pistol automatic with Serial No.-81811 which caused said Rufino Carlos' instantaneous death, thus causing damage and prejudice to the latter's family and heirs."

Bautista, Castillo, Ortiz and Matibag pleaded "not guilty" to the charge while Alcala remained at large.

The facts as culled from the records are as follows:

In the morning of November 8, 1990, Atty. Rufino Carlos was shot at close range while seated in his car parked outside his house in Capistrano Subdivision, Lucena City. After the shooting, the gunman simply walked away. Mrs. Amparo Carlos was seven (7) meters behind her husband and saw everything that transpired. Atty. Rufino Carlos was brought to the hospital but was pronounced dead on arrival.

Pat. Noel Manga of the Lucena police, who investigated the crime scene, recovered seven (7) empty shells beside the left portion of the car and two (2) slugs inside the car. Dr. Vicente Martinez autopsied the body of the victim and found seven (7) gunshot wounds, six (6) of which were fatal. Per his findings,^[2] Atty. Rufino Carlos died of hypovolemic shock secondary to multiple gunshot wounds perforating the ascending aorta.

Apparently unsatisfied with the pace of the investigation conducted by the Lucena police, the assistance of the National Bureau of Investigation was sought. The then NBI Director, General Alfredo Lim, assigned agents Burgos, de Guzman and Meneses

to investigate the case. In the course of his investigation, Burgos received information that the alleged gunman was accused-appellant Valentin Matibag, an inmate at the Quezon Provincial Jail. He also learned that a certain Edna Crisologo also witnessed the shooting. After securing pictures of Matibag, Burgos showed them to Edna Crisologo and Mrs. Carlos who both identified Matibag as the assailant. When Matibag was placed in a police line-up, he was again positively identified as the gunman by Edna Crisologo.

On March 18, 1991, the .45 caliber pistols of Wenceslao Castillo, Conrado Nipales, Carlos Bautista, Serafin Lagrama, Ronnie Menchero, Roberto Rama, Teodulo Ayag and Marianito Quisto, all personnel of the Quezon Provincial Jail, were subjected to fire testing. The examination of NBI Ballistician Ireneo Ordiano yielded the following results:

"Comparative examinations made between the evidence bullets marked as "EB-1", "EB-2", evidence shells marked "ES-1" to "ES-7" and test bullets and test shells fired from the abovementioned firearms revealed the following results:

- a. Evidence bullets, caliber .45 marked "EB-1" and "EB-2" revealed insufficient results. There are no sufficient individual characteristic markings found on both the evidence bullets that could be used as basis for a definite identification.
- b. Evidence shells, caliber .45 marked "ES-1" to "ES-7" possess similar individual characteristic markings with the test shells fired from UNKNOWN (COLT) Automatic Pistol Caliber .45 SN - 81811 said evidence shells marked "ES-1" to "ES-7" were fired from this particular firearm."^[3]

Notably, automatic pistol caliber .45 with Serial Number 81811 was the firearm issued to Assistant Provincial Warden Wenceslao Castillo.

Meanwhile, Matibag was brought to the NBI office in Manila, where he narrated that he shot Atty. Rufino Carlos upon orders of Provincial Jail Warden Eligio Bautista for a consideration of P50,000.00. In the early morning of November 8, 1990, Matibag was allegedly released from jail and brought near the house of his intended victim. He was accompanied by Bautista, Nipales and Ortiz. When Atty. Carlos came out of the gate of his house and boarded his car, Matibag casually walked near the car and shot him at close range several times. Thereafter, he was brought back to the Quezon Provincial Jail.

Having been implicated by Matibag, the latter's co-accused Bautista, Castillo, Nipales and Ortiz were invited to the NBI office in Manila. Ortiz executed a sworn statement narrating that in the afternoon of November 7, 1990, Manuel "Noli" Alcala, son of former Quezon Governor Anacleto Alcala, handed over to Bautista a brown envelope saying "Bahala ka na diyan, Eligio." At 6:00 p.m. that same day, Bautista, Castillo, Nipales and Ortiz planned to liquidate Atty. Rufino Carlos. They decided among themselves to use the firearm of Castillo as it was the most reliable. The next morning, they took Matibag out from detention and positioned themselves near the house of Atty. Rufino Carlos. When the latter came out of the gate of his residence and entered his car, Matibag casually walked towards him and shot him at

close range. Ortiz received P5,000.00 for his participation.

Nipales, on the other hand, died of heart attack while in detention. Meanwhile, Manuel Alcala surrendered to the authorities. Like the rest of his co-accused, he pleaded "not guilty" to the charge. The prosecution did not present additional evidence against him. Instead, it opted to rest its case. Matibag, Bautista, Castillo and Ortiz denied the charge against them. Alcala did not take the witness stand at all.

Accused-appellant Matibag insisted that he was coerced into making the statement before the NBI office in Manila. He denied being assisted by Atty. Antonio Barranda when the statement was made. Ortiz adopted the same line of defense. He declared he was tortured and coerced into making the statement. Bautista completely denied any participation in the killing. He claimed that he did not allow Matibag to be released from detention. For himself, Castillo maintained that he never relinquished possession of his firearm that fateful day of November 8, 1990.

Governor Eduardo T. Rodriguez testified for the defense. He averred that when he visited Matibag at the NBI office in Manila, the latter complained that he was coerced and tortured into signing a statement. The defense likewise presented Nelson Pacia, a jail guard at the Quezon Provincial Jail. He brought with him his "detail book" showing that Matibag did not leave the jail premises on November 8, 1990.

Upon assessment of the evidence presented by both parties, the trial court convicted Matibag and Castillo of murder. Bautista, Ortiz and Alcala were acquitted for insufficiency of evidence. The decretal portion of the decision reads:

WHEREFORE, finding Valentin Matibag and Wenceslao Castillo y Abitria guilty beyond reasonable doubt of the crime of murder defined and penalized under Art. 248 of the Revised Penal Code and taking into account the provisions of Article 64 of the same Code, and considering further the existence of the two aggravating circumstances of evident premeditation and that accused Wenceslao Castillo took advantage of his position not offset by any mitigating circumstance, the Court hereby sentences Valentin Matibag and Wenceslao Castillo y Abitria to reclusion perpetua.

Each of the accused is ordered to pay the heirs of the deceased Atty. Rufino Carlos the sum of P50,000.00 as death indemnity.

The Court cannot grant other damages as no evidence whatsoever was presented during the trial of this case.

The prosecution having failed to prove the guilt of accused Eligio Bautista, Dominador Ortiz and Manuel Alcala beyond reasonable doubt, they are acquitted.

The bailbond of accused Wenceslao Castillo y Abitria is cancelled and his confinement at the Quezon Provincial Jail is hereby ordered.

It appearing that accused Valentin Matibag is detained, he is credited