

[No. L-15631, May 27, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
HERMOSO SINA-ON, DEFENDANT AND APPELLANT. ORATION,
APPELLANT.**

BARRERA, J.:

Appellant Hermoso Sina-on .appeals from the decision of the Court of First Instance of Iloilo (in Crim. Case No. 7077) convicting him of the crime of robbery with homicide and physical injuries, and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the heirs of the deceased Rogelio Gregory in the sum of P6.000.00 and Marcos Isogan in the sum of P130.90, without subsidiary imprisonment in case of insolvency, and to pay the costs.

The evidence for the prosecution discloses that on the night of July 18, 1958, at around 7 o'clock, four malefactors (three of them armed with a carbine and locally-made revolvers) broke into the house of Manuel Isogan at barrio Tacas, Jaro, Iloilo. The three armed men passed through" the balcony, while the fourth one entered through the kitchen. After entering the house, they immediately ordered its occupants (Manuel Isogan, the latter's sons and daughter, Juan, Marcos, and Felisa Isogan, Rogelio Gregory, Bonifacio Galas, and Severino Robles) not to move and to lie down on the floor in one corner of the house. The one who was armed with a carbine (Exh. E), who turned out to be Jose Solatorio, then approached Manuel and, pointing his carbine at the latter, asked for money. Manuel told him he had no money, for which reason, Solatorio kicked him. Realizing his dangerous situation, Manuel told Solatorio to wait and thereupon drew his money (a total of P33.00) from his short pants' pocket. Solatorio demanded for more, but Manuel told him it was all he had. While Manuel was handing the money to Solatorio, appellant herein entered through the kitchen and immediately snatched the money and put it in his pocket. Appellant then took hold of Felisa and dragged her to the balcony. With the help of his two companions, appellant removed Felisa's pedal-pusher (Exh. F)^[1] despite her resistance and touched her private parts. When they tried to abuse her, Felisa did her utmost to escape and when she succeeded in doing so, she ran to her father and told him she could no longer endure the abuses of the intruders. Upon hearing Felisa's complaint, her father (Manuel Isogan) immediately told his sons Juan and Marcos to get up and fight them. Thereupon, Juan and Marcos, who until then were lying on the floor, stood up and started to fight the intruders. While fighting with Solatorio, Marcos was shot and wounded in the left arm (Exh. C) by Solatorio with his carbine (Exh. E). With three more discharges from his carbine, Solatorio was able to hit and wound Rogelio Gregory in the stomach (Exh. A). Bonifacio Galas was also hit and wounded in the left cheek and left shoulder (Exh. D). Despite being wounded, Marcos Isogan succeeded in disarming Solatorio. Moments later, while Marcos was being strangled by Solatorio, he called his brother Juan and, when the latter came to his succor, Solatorio started to run away and jumped down from the house. His three companions, including herein appellant, also escaped and fled with him. Marcos then handed the carbine (Exh. E) he grabbed from Solatorio to Juan, and the latter immediately went down and ran after the robbers. Solatorio, who ran

against a wire line (for drying clothes), fell down and was overtaken by Juan. As Solatorio tried to make use of a locally-made revolver (Exh. G), Juan hit him with the butt (Exh. E-I) of the carbine, which got broken due to the impact. Upon seeing that Solatorio had also a bolo, Juan took it away from him and stabbed him with it, killing him (Solatorio).

Juan then went back for his brother Marcos, placed him on the back of a carabao, and took him to the Pepsi-Cola office, a short distance from his father's house. Rogelio Gregory and Bonifacio Galas were also taken to the same office. Juan then reported the incident to the police. Upon receipt of the information, policemen were sent to the Pepsi-Cola office and with them also went Fiscal Cesar J. Orleans. Marcos Isogan, Rogelio Gregory, and Bonifacio Galas were then brought to the Mission Hospital. The police found the dead body of Solatorio under the balcony of Manuel Isogan's house, with a revolver (Exh. G) nearby, as well as a pistol (Exh. H) on the floor of the house. They also found the butt (Exh. E-I) of the carbine (Exh. E), the magazine (Exh. E-2), and the bullets (Exhs- E-3 to E-13). Inside the house, they found Felisa's pedal-pusher (Exh. F). The buttless carbine (Exh. E) was delivered by Juan Isogan to the policemen while they were at the Pepsi Cola office.

Dr. Roberto Damicop performed an emergency operation on Rogelio Gregory who, nevertheless, died two days later (on July 20, 1958). The cause of death was attributed to shock and loss of blood, resulting from the gunshot wounds. The doctor testified that Rogelio suffered a punctured wound (1 cm. in diameter) near the umbilical area penetrating the abdomen through and through, a wound (1-½ cm. in diameter) at the left lumbar side with omentum coming out, and a punctured wound through and through along the left elbow joint with swelling, a hematoma and a wide rent of the omentum inside the abdomen, a wound inside the abdomen, and a lacerated wound at the serosa of the greater curvature of the stomach. There was a massive amount of fresh and clotted blood in the peritorial cavity (See Exh. A). The punctured wound near the umbilical cord area was produced by a bullet fired from a gun.

Dr. Teodoro Centeno, medical officer at the Iloilo City Health Department, who treated Marcos Isogan found a gunshot wound with a point of entrance on the right arm and a point of exit near the spinal column. The wound was possibly caused by a carbine according to him. Marcos was treated at the Mission Hospital for about 15 days. After his discharge therefrom, he had to return to the hospital for dressing of his wounds. He spent about P130.90 as medical expenses.

Dr. Cresencio Dominado, City Health Officer of Iloilo City examined Bonifacio Galas on July 28, 1958 and found a newly healed lacerated wound at the left side of the chin with stitches removed, healed multiple abrasions at the left side of the face, and a newly-lacerated wound at the left shoulder with stitches removed. According to him, the injuries could have been caused by a blunt instrument with a rough surface.

Just a few days after the occurrence of the crime, the police received information to the effect that herein appellant was one of the four malefactors who raided the house of Manuel Isogan on that night of July 18, 1958. Appellant was arrested on July 25, 1959 in his grandmother's house in Zarraga, Iloilo. When brought on a jeep to barrio Pavia, Jaro, Iloilo where Manuel Isogan had moved his residence due to the aforesaid incident, he (appellant) was immediately identified from among five persons in the jeep by Juan and Felisa Isogan as one of the four malefactors who