

4 Phil. 172

[G.R. No. 1832. January 28, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MARTIN SOSA ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

MAPA, J.:

The defendants, as principals in the commission of the crime of robbery with intimidation of the person, provided for and punished by paragraph 5 of article 503 of the Penal Code, were sentenced by the Court of First Instance of Tarlac to three years and nine months of *presidio correccional*, to the restitution of the amount of 65 cents which is supposed to have been taken, and to pay the costs.

On the evening of March 24, 1903, as Ines Licub, in company with seven persons, was passing by the road of Aguso on her way to the town of Gerona, Province of Tarlac, she was stopped by the defendants, who asked her for some money. One of her companions gave them the amount of 95 cents, after which she and the rest of her company continued on their way. This took place at 5 o'clock in the evening in front of a camarin belonging to one Juan Nepomuceno, located at a distance of 100 yards from the houses of the town. The defendants were carrying ordinary bolos in their belts when they came to ask money from Ines.

The latter, as well as two of her Companions, Mariano Ramos and Antonio Tipay, who testified in the case, agree in their statement that the defendants did not use any threats or force of any kind upon asking money from them. Besides this, Mariano Ramos, who gave them 95 cents, declares in a categorical and conclusive manner that they *gave the money to the defendants voluntarily*.

The defendants openly confessed their action, saying that from 2 o'clock that afternoon they were in the place of the occurrence cutting the barks of the trees known as *camachiles*, and, as they saw Ines Licub—whom they knew from childhood and with whom they were upon terms of intimacy—pass by, they called and stopped her, asking her for some money with which to buy cigarettes, and she then voluntarily gave them 95 cents. They explain the fact of their carrying bolos by saying that they used them for their work that afternoon. The fact of their acquaintance with Ines is corroborated by the latter, who testified that she was acquainted with defendants, Martin Sosa and Pedro Perez, they having been her neighbors in the barrio of Laoang. Nothing stated by the defendants has been rebutted by the prosecution.

In view of these facts, we have arrived at the conviction that when the defendants approached Ines Licub to ask money from her they did not do it with the evil intention of robbing her. We believe that it was not their purpose to obtain what they wanted by means of intimidation, since there is nothing in the record to show that they have in any way intimidated the woman or her companions. If they carried bolos, they had them in their belts; they did not make the least motion to use them. This proves their peaceful object; and it is to be considered further that they carried the bolos for the entirely lawful purpose, foreign to the facts in the case, of using them in the cutting of *camachiles*. On the other hand, neither the hour (5 o'clock in the evening) nor the place, opposite to a bamboo warehouse, which at the time of the occurrence is not known to have been uninhabited, it being located at a distance of 100 yards from, and therefore within sight and hearing of, the houses of the town, were circumstances particularly liable to intimidate eight persons, though six of them were women, by the mere presence of three known persons (as the defendants were acquainted with Ines Licub), unaccompanied by any aggressive and hostile demonstration.

The best proof of it is that no one of the witnesses for the prosecution testified that they gave the money by reason of fear; they declare unanimously that it was given for the sole reason that the accused asked them for some money, and the one who gave it to them affirmed that he did it voluntarily.

The single statement of Ines Licub that she believed that the accused were robbers does not easily harmonize with the other statement made by herself that she knew the accused previously and that she knew that they had never been engaged in robbing people.

It does not seem improbable to us that the accused believed in good faith that their old acquaintance with Ines Licub warranted their asking a small amount of money from her with which (as they themselves say) to buy tobacco or cigarettes, and with that confidence they committed that act, far from thinking that they would do Ines any offense. The fact that they continued to work quietly on the very place of the occurrence after the event, according to their statement, authorizes this conclusion, which is not the less proved by the fact that they confessed what occurred with entire simplicity and good faith when testifying in the case.

By all means, it is not proved beyond reasonable doubt that the defendants proposed to take possession, by means of violence and intimidation, of the sum of 95 cents, which appears to have been given to them voluntarily, according to the very testimony of the person who gave it to them. And this being so, it is not possible under the law to impose any penalty upon them.

In view of the foregoing statement, we reverse the judgment below and entirely acquit the defendants. The warden of Bilibid Prison is hereby ordered to release them immediately, and the money and bolo taken from Martin Sosa shall be returned to him, with the costs of both instances *de officio*. So ordered.

Arellano, C J., Torres, Johnson, and Carson, JJ., concur.
