

[G.R. No. 1787. February 21, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MATIAS LOPENA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a complaint dated July 31, 1903, Matias Lopena, Casimiro Barroso (*alias* Jorge Lopena), Dionisio Puente, and Placido Lopena were charged by Paula Villa with the crime of robbery. The complaint stated that the defendants, on or about July 26, 1903, in the city of Manila, did willfully and unlawfully, armed with bolos, scale the house in which the complainant lived and take the sum of 210 pesos, a pair of earrings set in pearls, valued at 18 pesos, local currency, belonging to her, without her consent and to her prejudice; all contrary to the law. The case having come on for trial, the defendants pleaded not guilty, but before entering upon the proofs, and at the request of the assistant prosecuting attorney, the case was dismissed as regards Placido Lopena in order to use him as a witness. After the evidence was completed in the case, the court below sentenced Matias Lopena, Casimiro Barroso (*alias* Jorge Lopena), and Ignacio or Dionisio Puente to two years four months and one day of *prision correccional*, having found them guilty of the crime of robbery.

From this sentence the defendants appealed. While from the complaint and the testimony given by the injured party, Paula Villa, we might consider the fact of the robbery proven, yet since her father and her cousin, who lived in the same house, did not testify, and there is no other evidence corroborating her testimony, we can not assert for that reason that there is in the record any evidence which might satisfactory establish the guilt of the defendants beyond a reasonable

doubt. Paula Villa herself states in her testimony that when the robbers entered her house through the window the one who came in first grabbed her by the hands, thus awaking her; that her father and her servant, Placido Lopena, were still asleep; that when her father awoke the servant was still in bed, motionless, no doubt on account of fear. However, in the complaint she charged her servant as one of the robbers. This charge, as will be seen, was contradicted by her in her sworn statements.

The injured party states that she knew who the robbers were and the place where they lived, because her servant, Placido Lopena, who is a relative to certain of the defendants, told her and pointed out the place where Matias Lopena and Casimiro Barroso lived; that Placido Lopena took her and the policeman, on the sixth day after the occurrence, to the house of Matias Lopena and Casimiro Barroso in order to arrest them,

Placido Lopena, however, while he corroborates the fact that the robbery was committed by three unknown persons, denies having told anything regarding the defendants or having indicated their residences; that when defendants were arrested Paula Villa told him beforehand to follow her and the policeman as a witness; that when he told her he was afraid something might happen to him, she answered not to be frightened, that she would look to it; that he remained in the street while the policeman apprehended the defendant; he denies having indicated to them the house and denies having stated that the one who caught Paula by the neck on the night of the robbery was one of the defendants.

The defendants pleaded not guilty; two of them, Casimiro Barroso and Matias Lopena, each put one witness on the stand to testify in their behalf that when they came from work they had dinner and went to sleep. These two assert that they did not leave their house on the night of the robbery, and the other defendant, Ignacio Puente, states that he was away in the town of Muntinlupa on the night and morning of the occurrence; that when he returned to Singalong and heard that the police were looking for him he then hastened to the Paco station, in

order to learn why they wanted him.

The facts in this case do not produce on the mind a clear conviction of the defendants' guilt; the defendants further have the presumption of innocence in their favor until the contrary is proven, and so by virtue of the reasons above stated we are of the opinion that the judgment below should be reversed and the defendants, Matias Lopena, Casimiro Barroso (*alias* Jorge Lopena), and Dionisio or Ignacio Puente, acquitted, with the costs *de officio*,

this case to be remanded to the court below with a certified copy of this decision and of the judgment which shall be rendered in accordance herewith. So ordered.

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