

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EUGENIO BARCENA ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-1079. November 28, 1947*

Ponente: PARAS, J.

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This is an appeal from a judgment of the Court of First Instance of Cagayan finding the defendants, Eugenio Barcena, Crispulo Sandi, Filemon Piaña, Santiago Pasinos, Quirino Danga and Aproniano Sandi, guilty of robbery with quadruple homicide and sentencing them to reclusion perpetua, with legal accessories, and to indemnify, jointly and severally, the heirs of Geronimo Rico, Raymundo Rico, Gregorio Rico and Basilio Donato, the first three in the sum of P2,000 each, and the last in the sum of P2,230, plus proportionate share of the costs.

The prosecution alleges that at about eight o'clock in the evening of October 9, 1944, the spouses Basilio Donato and Valenciana Rico, who were living in the barrio of Campo, municipality of Faire, Province of Cagayan, heard somebody calling from the yard of their house. Basilio, with a lamp and followed by his wife, went to a window from which seven men, six of whom were armed with bolos and one with a revolver, were seen below. As ordered by the visitors, Basilio went down whereupon the former inquired about the latter's horse, which was soon found. Basilio's hands were tied behind his back. Entering the house, four men threatened to kill Valenciana if she would not deliver the certificate of ownership of the horse. No sooner had Valenciana opened her trunk for the purpose than said four men started to ransack it and to take away P200 in cash and two blankets worth P5 each. After also taking away two saddles valued at P10 each, the group left, taking Basilio along. The same seven men proceeded to the house of Geronimo Rico, father of Valenciana, from which they took Geronimo and his two sons, Gregorio and Raymundo, after the hands of the three had been tied behind their backs. The kidnapped individuals, namely, Basilio, Geronimo, Gregorio and Raymundo, were never seen alive again. Indeed, their dead bodies were found the next day in the mountain of Taggat.

On November 19, 1945, or more than one year after the alleged incident, a criminal complaint for robbery with quadruple murder was filed with the justice of the peace court of Faire, Cagayan, against the herein six appellants and Gregorio Castro, which complaint gave rise to the information filed by the provincial fiscal of Cagayan under date of April 15, 1946, in the Court of First Instance of said province. Gregorio Castro died while under detention before the trial in the lower court.

The appellants set up the defense of alibi, in that appellants Eugenio Barcena, Crispulo Sandi, Filemon Piaña and Aproniano Sandi were, at the time of the commission of the alleged crime, working in a Japanese airfield in Buntun, Tuguegarao, Cagayan; appellant Santiago Pasinos was in his guerrilla camp in Labben, Al-lacapan, Cagayan; while appellant Quirino Danga was in Malalam, Solana, Cagayan, sick with malaria and too weak to move about, Buntun being about 38 kilometers, Al-lacapan about 40 kilometers, and Solana about 28 kilometers distant by straight route from Faire, the place where the alleged crime was perpetrated.

The prosecution alleges that the identity of the herein appellants has been successfully established by Valenciana

Rico and Albino Rico, alleged to have been in their respective houses when Basilio Donato and Geronimo Rico and the latter's two sons were taken away by said appellants. The trial court furthermore relied on the testimony of Esteban Empleo, another witness for the prosecution, who claimed that the appellants admitted before him in the house of Gregorio Castro that they had already killed the victims mentioned in the information, and that said admission was made immediately after they had accomplished the criminal act.

We have carefully analyzed the evidence in this case and are constrained to hold that there is at least a reasonable doubt as to the guilt of the appellants. In the first place, when the alleged incident was reported to the local authorities on October 10, 1944, that is, the day following the date of the occurrence, neither Valenciana Rico nor Albino Rico ever mentioned the names of the herein appellants or any of them. If, as related by said witnesses, they had known the appellants or some of them even before the incident in question, they would naturally have revealed to said authorities their names, and this would be the instinctive reaction of persons offended by such a heinous crime as that charged in the information. The excuse set up by said witnesses during the trial that they did not reveal the names of the appellant when they first reported the crime because they feared for their lives, cannot readily be accepted, since by merely reporting the alleged incident they should have known that the authorities would be on the search for the culprits and the latter would thereby feel uneasy and take measures against the persons so reporting. In the second place, in their affidavits (Exhibits 1 and 2) respectively executed by Valenciana Rico and Albino Rico on November 16, 1945, said witnesses for the first time made mention of the names of only three appellants, namely, Filemon Piaña, Crispulo Sandi and Eugenio Barcena, thus at least giving the impression that they were ignorant of the identity of the other participants in the alleged crime. Said witnesses could not then claim that they were still afraid of the culprits who might go after them, because they had commenced to give names. If the alleged killers were in fact seven and already known to said witnesses, the latter should not have forgotten to mention such important facts in their affidavits. Our doubt is enhanced by the circumstance that neither of the two principal witnesses for the prosecution above mentioned had claimed that the appellants ever tried to disguise themselves while committing the alleged offense, because, if already known by said witnesses, they would in the ordinary course of things have taken some precaution to conceal their identity. In the third place, we are not inclined to give weight to the testimony of Esteban Empleo as the latter has been shown to have had ill feelings against Gregorio Castro, deceased defendant, and the appellants herein, not to mention the fact that he is of bad reputation. Moreover, it was very unnatural for the appellants to have informed said witness of the accomplishment of the crime charged in the information, unless said witness Empleo was a party to the criminal scheme. In the latter case, his testimony comes from a polluted source.

It becomes unnecessary to dwell at length on the merits of appellants' defense of alibi. While such defense must be proved by convincing evidence, we have a situation in which the evidence for the prosecution engenders a reasonable doubt in our minds as to appellants' culpability, especially when none of its witnesses claimed to have actually seen the appellants or any of them perform the act or acts that killed the victims specified in the information. The guilt of an accused cannot of course be inferred from any defect in the evidence for the defense.

Wherefore, the appealed judgment is hereby reversed and the defendants-appellants acquitted with proportionate costs de oficio. So ordered.

Moran, C.J., Feria, Pablo, Perfecto, Bengzon, and Briones, JJ., concur.

DISSENTING

TUASON, J.:

I disagree with the setting aside of the appealed decision. There is ample evidence to uphold the findings of the court below.

The delay in the filing of the complaint and the failure of the deceased's relatives to reveal the names of any of the defendants to the local authorities are easily explained by the conditions prevailing at the time of the commission of the crimes and throughout the following months. Under the then existing state of peace and order the victims' relatives were in the grip of fear for their own lives. They were, or believed they were, at the mercy of the accused. In reporting the crimes to the barrio lieutenant their sole concern was to recover the corpses of their kins and give them a decent burial. The barrio lieutenant and the police themselves, from all appearances, were not over-anxious to make more than a perfunctory investigation of the horrible crimes.

To be sure, I believe that the testimony of Valencia Rico and Albino Rico, the two principal witnesses for the prosecution, should not be given credence as to the identity of four of the accused. These witnesses had stated at the preliminary examination conducted after liberation that they had recognized only four of the robbers and kidnappers, knowing three by name and one by sight. As to the four accused not previously named by these witnesses, I think they either committed willful perjury or were influenced by suggestion. However, with reference to the three accused they had mentioned I see no reason to doubt their veracity. The fact that they did not name all the defendants attests to their good faith so far as these three accused were concerned. The maxim, "False in one false in all" is not of general application. We know that a witness may be a deliberate perjurer in one respect and be absolutely truthful in other matters relating to the same transaction.

However that may be, Esteban Empleo Calaunan's testimony is positive, free from any ambiguity, equivocation or uncertainty. He was the son-in-law of one of the accused, Gregorio Castro, who died in jail before the trial, and is related by marriage to some of the other accused. The other defendants were known to him as intimately as his wife's relatives. Above all, his evidence has a genuine ring of truth and earnestness. Here is in substance what he said:

Eugenio Barcena is a relative of his wife. Crispulo Sandi is her uncle. On the night of October 9, 1944, he was in the house of his parents-in-law. At about 12 o'clock, someone called out "mother." He asked who was calling and the answer said it was Aproniano Sandi and Santiago Pasinos. These two accused came riding on one horse mounted with two saddles. (Two saddles among other properties had been carried away from the house of one of the murdered men.) The saddles were spattered with mud. Both of them said, "Mother is finished" (which seems to be a colloquial expression suggesting that something has come to an end). Soon afterwards five more persons came and they were Quirino Daña, Crispulo Sandi, Eugenio Barcena, Filemon Piaña and Gregorio Castro. These people said the same thing, "Mother is finished." They were carrying bolos except one who was holding a revolver. That one was Santiago Pasinos. Later on they ate their supper prepared by Lucia Barcena and Luciana Sandi. Lucia Barcena being the daughter of Eugenio Barcena. After eating, all the accused left except Gregorio Castro.

The lower court believed this witness. His Honor had the advantages which we do not enjoy to gauge his veracity. For this Court to substitute its own judgment for that of the trial judge regarding this witness's credibility is to go against the well-established rule based on natural reason and sound principles of appellate practice and procedure.

The alleged bad character of Calaunan and his enmity with some of the defendants, even if true, ought not to sway the court in the evaluation of this witness's veracity. The important factors were his manner and behaviour on the witness stand and the general characteristics, tone, tenor and inherent probability of his statements. Out of

quarrels comes the truth, as the saying goes. It is to be noted that if, according to the evidence for the defense, there was bad blood between Calaunan on the one hand and some of the defendants on the other, he had no cause to falsely implicate the others.

It was nothing strange that the defendants made no attempts to hide from Calaunan what they had done. In the first place, Calaunan was a son-in-law of Gregorio Castro and may well have been taken by them into their confidence. In the second place, the record shows that in that part of the country, as in many others, lawlessness was rampant, with murders, robberies and other heinous crimes being committed with apparent impunity. The defendants conceivably may have gotten the notion that it was going to be like that forever. This comment answers this Court's observation that none of the robbers and kidnappers was disguised.

HILADO, J.:

I concur in this dissent.

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