

THE PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE VS. FEDERICO DE LA CRUZ Y SANTOS, DEFENDANT-APPELLANT.

G.R. No. L-133. April 30, 1946

Ponente: JARANILLA, J.

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JARANILLA, J.:

Federico de la Cruz y Santos was prosecuted for theft in the Court of First Instance of Manila. On a plea of not guilty, he was duly tried, after which he was found guilty and sentenced to suffer an indeterminate penalty ranging from one year and one day to three years, six months and twenty-one days of prision correccional, with the accessories of the law, to indemnify the offended party in the sum of P10,000, with subsidiary imprisonment in case of insolvency, and to pay the costs. From this judgment he appealed. The information reads as follows:

"That on or about the 14th day of September, 1945, in Caloocan, Rizal, but within 2-1/2 miles from the limits of the City of Manila, Philippines, and within the jurisdiction of this Court, the said accused, with intent of gain and without the consent of the owner thereof, take, steal and carry away one bundle containing the following, to wit:

"1. NECKLACE:

"a. Star shape, with white stone (brilliant)

"b. With rope shape chain and cross locket

"c. One with a locket and a picture of Saint Joseph

"d. One with a name 'Chaling' on the locket

"2. EARRINGS:

"a. One with a tear drop shape or oval with many brilliant stones

"b. One with 'Paras' and brilliant stones

"c. One with a 'heart shape'

"3. RINGS:

"a. One 'Rositas'

"b. One square shape with many small stones (brilliant)

"c. One 'Solitaire' (large)

"d. One 'Solitaire' (small)

"4. MONEY IN CASH:

"a. Emergency Notes (1941)

P500.00

"b. Genuine

700.00

"5. KNITTED BABY DRESSES WORTH

5.00

of the total value of P10,000 to the damage and prejudice of the complainant Glicerio Pizon, the owner thereof, in the aforesaid sum of P10,000, Philippine currency."

From an examination of the evidence it appears conclusively proven and established that Glicerio Pizon and his family and their two maids, one of whom was Magdalena Flores, arrived at Manila from Iloilo on the night of September 14, 1945. As they intended to go to Malabon, Rizal, they hired two carretelas, one of which was occupied by Mrs. Pizon and their two children and Magdalena Flores, while the other was boarded by Glicerio Pizon, carrying with him all their baggage consisting or, about 15 bundles, among which was a small basket containing jewelry, money and baby dresses of the total value of around P10,000. Mrs. Pizon stopped at Sangandaan, Caloocan, Rizal, to wait for her husband who had been left behind due to an accident. Then the latter arrived at that place, one of the five drivers refused to go any further; so they unloaded the baggage in front of a well-lighted Chinese store and waited there for another vehicle to take them to Malabon. While they were thus waiting the appellant herein was standing near the door of the Chinese store. About nine or ten o'clock that night they saw a truck approaching. Glicerio Pizon and Magdalena Flores stopped it on the middle of the road and requested the driver thereof to take them to their destination. Said driver, however, refused to do so, as he was then proceeding to Manila. After the refusal of the truck driver they turned around to return to their place of waiting whereupon they saw the appellant snatch the basket containing the jewelry and other valuables and run away with it. Glicerio Pizon and Magdalena Flores went after him, but failed to over- take him (p. 7, t.s.n.).

Appellant contends that he was not sufficiently identified on that occasion and puts up the defense of alibi, alleging that on the occasion of the disappearance of the basket with its contents he was in his house and could not have committed the offense imputed to him.

The principal question to be decided here involves the credibility of the witnesses for the prosecution. Had they sufficiently identified the appellant on the occasion of the commission of the offense? Magdalena Flores testified that [due to the lights of the Chinese store that night she could clearly see the accused, who had been standing by the store if or sometime, and saw him snatch the basket and make off with it. This testimony was strongly corroborated by that of Glicerio Pizon, who also could identify the accused, as the latter had been hanging around there long enough for said witnesses to remember his appearance and features (p. 9, t.s.n.). And without any hesitation these witnesses pointed out the accused after his arrest. This Court believes that the findings of the trial court, which saw and heard the witnesses on the stand, should be given due weight, when it stated that—

". . . Pizon reconoció al acusado Federico de la Cruz como la persona que les quitara el referido basket por razón de su estatura y la configuración de su cabeza solamente, en tanto que Magdalena Flores identifica al acusado sin titubeos porque afirma haberle visto parado a la puerta de la repetida tienda de Chino y se fijó en su cara, mas aun como la viera que se iba hacia la oscuridad sospecho de el y le estuvo observando, solo que

por haber visto un truck que venia, se separo de las equipajes para detener y suplicar al chofer del mismo a que les llevara a su destino."

Alibi is one of the weakest defenses that can be resorted to by an accused. This is especially true in this case in view of the direct testimony of an eyewitness duly corroborated by that of another (U.S. vs. Hudieres, 27 Phil. 145; People vs. Cabantug, 49 Phil. 482; People vs. Medina, 59 Phil. 330). And before an alibi can be given effect it must be proved by positive, clear and satisfactory evidence, which is not so in this case (People vs. Pili, 51 Phil. 965, People vs. Badilla, 48 Phil. 718). A witness for the defense itself admitted that after 9:30 P.M. of the day in question he did not see the accused again until the following morning. It was therefore possible for the accused to have been present at the time indicated by the witnesses for the prosecution when the crime was committed (p. 13, t.s.n.).

In view of all the foregoing, we are convinced beyond reasonable doubt that the guilt of the appellant has been established. As the decision appealed from is in accordance with law and the evidence, it is hereby affirmed, with costs.

Moran, C.J., Paras, Feria, Pablo, and Briones, JJ., concur.

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