

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. PACIFICO CORPES, ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-4187. December 18, 1951*

Ponente: PARAS, C.J.

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This is an appeal from the judgment of the Court of First Instance of Leyte, finding the appellants, Pacifico Corpes and Anatalio Borja, guilty of robbery with homicide and sentencing them to the indeterminate penalty of from 17 years, 4 months and 1 day to 20 years, reclusion perpetua, to indemnify the heirs of the deceased Godofredo Lim in the sum of two thousand pesos, plus the amount robbed (P120), with subsidiary imprisonment in case of insolvency, and to pay proportionately the costs. Like the appellants, their co-accused (Ceferino Lloren) was also convicted and sentenced, but the latter had escaped from the provincial jail one week after the trial. Three other co-accused (Celestino Villamor, Ambrosio Fabular and one John Doe) have never been apprehended.

According to Estelita Ocba who lived in the sitio of Lison, barrio of Esperanza, municipality of Inopacan, province of Leyte, at about midnight of May 19, 1948, she found it necessary to go to her kitchen to prepare rice gruel. The kitchen was lighted by a wick lamp and the living room by a lantern. Eyeing that the shutter of the kitchen door was being pushed from the outside, Estelita woke up her son (Santiago Lim) who was then sleeping in the kitchen with his wife (Ulpiana Dadula). Whereupon Estelita rushed to her sleeping children in the living room, her husband being then out in the sea fishing. After a short while, three persons entered the house. One was appellant Pacifico Corpes who pointed his revolver at Estelita; another was Celestino Villamor who looked around the house; and the third remained in the kitchen and could not be identified by Estelita. Finding the trunk in the living room, Celestino Villamor forced it open and took therefrom a wallet containing P120. As Estelita could not help shouting for assistance upon seeing the act of Celestino Villamor, Pacifico fired a shot at her. The bullet (which missed its target) hit Estelita's child (Godofredo Lim) who was asleep nearby and killed instantly. The intruders then left in haste.

According to Santiago Lim, he was awakened by his mother on the night of May 19, 1948, and, after being told that there were persons who wanted to enter their house through the kitchen door, he proceeded to hold its shutter. Fired upon from the outside, Santiago ran to the living room and, after hearing another shot, he jumped out of the window and rushed towards his neighbors who could not come to his aid because of fear. Hiding behind a coconut tree, Santiago was able to observe that appellant Anatalio Borja was looking up under the kitchen with a dagger in his hand; Ceferino Lloren, Celestino Villamor, and appellant Pacifico Corpes came out of the house through the kitchen door; and the four of them afterwards left. Pacifico Corpes was armed with a revolver, Ceferino Lloren with a hunting knife, Anatalio Borja with a dagger, and Celestino Villamor with a small bolo.

Ulpiana Dadula in turn testified as follows: At about midnight of May 19, 1948, she was awakened by a shot fired near the place where she and her husband were sleeping in the kitchen. She saw three persons in the house, one of whom was Ceferino Lloren who knelt upon and choked her and threatened her with a hunting knife if she would make an outcry. The other, two intruders were Pacifico Corpes (with a pistol) and Celestino Villamor who

proceeded to the living room. Upon being released after the trio had left hurriedly, Ulpiana went to the living room where she found her mother-in-law (Estelita Ocba) crying and Godofredo Lim (her brother-in-law) wounded on the abdomen and already dead. She also found Estelita's trunk open and her wallet gone.

The testimony of appellant Pacifico Corpes tends to show that he, Ceferino Lloren and Anatalio Borja were serenading near a bridge in Inopacan at about nine o'clock in the evening of May 19, 1948, when Celestino Villamor and his companions arrived. Celestino asked Pacifico and his two companions to come along and serenade in the sitio of Lison. Pacifico and his companions at first refused to go on the excuse that they had not eaten their supper, but as Celestino insisted and threatened to take the guitar of Pacifico and his companions if the latter would not go, they were compelled to join the party of Celestino. On the way Celestino informed Pacifico that upon reaching the place of Estelita Ocba, Celestino would stop by her house as he had a date with her paramour (Ulpiana Dadula) whose husband was away that night. As a matter of fact, when the party reached the house of Estelita, Celestino and his companions (other co-accused who are still at large) entered the same, while Pacifico and his companions (Ceferino Lloren and Anatalio Borja) remained below. Shortly thereafter Pacifico heard somebody say "Santiago, get your gun because there is a man who is sleeping with your wife." This was followed by the discharge of a gun and by "Agoy, Inay, I am shot." Seized by fear, Pacifico and his companions fled towards their barrio, but Celestino and his companions overtook them, informing that the husband of Celestino's paramour was in the house. Celestino alone had a revolver.

Appellant Anatalio Borja and Ceferino Lloren corroborated the testimony of appellant Pacifico Corpes. The two other witnesses for the defense are Toribio Borja (father of Anatalio Borja) and Enecita Josef (mother of Pacifico Corpes) who testified that Estelita Ocba had proposed to ask for the dismissal of the criminal case if the two witnesses would pay P70.00 each.

We have no hesitancy in ruling that appellants' conviction is supported by ample evidence. The commission of the crime was testified to by three eyewitnesses against whom no motive for falsely testifying has been imputed. There could be no doubt about the identity of the appellants because the kitchen and living room of Estelita's house were lighted and they had previously frequented Estelita's place during barrio fiestas.

We cannot give credence to appellants' pretense that they were merely asked by Celestino Villamor to join the latter's party, and that they could not refuse because Celestino threatened to take appellants' guitar if they would not join. In the first place, if the appellants in fact wanted to evade the company of Celestino, they could have allowed the latter to take their guitar, as it is not even hinted that they could not get it back if the same fell into his possession. In the second place, if the appellants really wanted to get rid of the company of Celestino, they had had ample opportunity to leave as soon as Celestino and his companions went into the house of Estelita.

Neither can we believe the allegation that Celestino had informed the appellants that he was dated by his paramour (Ulpiana Dadula) on the night in question, because, if it were true, he would have kept the same as secret as possible or, at least, he would have been satisfied with the help or company of the men of his confidence, without further needing appellants' presence. Moreover, if Celestino had such a date with his paramour in her house, he alone would have gone up, unless it be admitted that Celestino foresaw resistance on the part of the inmates of the house. Again, it is noteworthy that in their affidavits executed shortly after the commission of the crime, the appellants made no reference whatsoever to the projected meeting of Celestino and his paramour in the house of Estelita.

Upon the other hand, it is very apparent that the concerted testimony of the appellants and their co-accused (Ceferino Lloren) to the effect that the authors of the crime were Celestino Villamor and his two companions who are all still at large, was designed to exculpate the appellants and incriminate those who have as yet not been

apprehended and therefore do not run the risk of being convicted. Appellants' imputation that Estelita Ocba offered to settle the case for the small amount of P140,00, besides being flatly denied by Estelita, is too irrational to be accepted. A mother normally would not barter the life of her son for any amount, much less for an insignificant sum. At any rate, it cannot be expected that she would take the initiative towards extra-judicial settlement.

Appellants' counsel has stressed the circumstance that the bullet extracted from the body of the deceased Godofredo Lim was not proved by positive evidence to be that of the revolver fired by appellant Pacifico Corpes. The point is unimportant, because appellants' authorship of the crime has been established by eyewitnesses whose credibility is beyond question.

The solidary liability of appellant Anatalio Borja for both the robbery and the homicide arises from the facts that, at the outset, he was with his three companions who had gained entrance into Estelita's house through the kitchen door after firing a shot; that while his companions were in the house, he posted himself below; with a dagger in his hand; that he left the scene of the crime together with the trio that raided Estelita's house, all of which clearly point to a previous conspiracy.

The Solicitor General recommends the imposition of the death penalty upon the appellants in view of the presence of the aggravating circumstances of band, dwelling and nighttime, without any mitigating circumstance. For lack of necessary vote, however, said penalty cannot be, meted out. The appellants are, therefore, hereby sentenced to reclusion perpetua and its legal accessories, and to indemnify the Heirs of the deceased Godofredo Lim in the sum of two thousand pesos and in the further amount of one hundred twenty pesos (the money robbed), without subsidiary imprisonment in case of insolvency, plus the costs proportionately. So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Reyes and Jugo, JJ., concur.

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