

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFONSO NAZARIO Y BAUTISTA, ANGEL BIGLANGAWA Y SANTOS,
SEVERINO BERNARDO Y MACASEB AND JUAN MACABANTA,
DEFENDANTS, ALFONSO...**

G.R. No. L-470. February 28, 1947

Ponente: HILADO, J.

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HILADO, J.:

The accused-appellants Alfonso Nazario and Angel Biglangawa were sentenced by the Court of First Instance of Manila on March 25, 1946, as guilty of the crime of robbery, to an indeterminate penalty of from one (1) year and one (1) day to two (2) years, eleven (11) months and eleven (11) days of prision correccional, to indemnify the offended party jointly and severally in the sum of P200, with subsidiary imprisonment in case of insolvency, and each to pay one-fourth of the costs.

The supposed offended party was one Juliet Dilli, said to have been residing on the date of the alleged crime (February 10, 1946), at 70 Lamayan Street, Sta. Ana, Manila.

Said accused, upon appeal to this Court, pray for acquittal, assigning two errors as having been committed by the trial court, namely, (1) "in admitting the alleged extrajudicial confessions, Exhibits A and B, without any other evidence of corpus delicti" and (2) "in evaluating (the) alleged stolen property at P200 when there was absolutely no evidence thereof."

In the view we take of the case, it will be unnecessary to consider the second assigned error.

It appears that Juliet Dilli did not testify as a witness at the trial of the case (appellee's brief, p. 6). The testimony of the witness Rebolledo of the Secret Police Force to the effect that on February 11, 1946, Juliet Dilli reported a robbery allegedly committed in her house to Precinct No. 5 of the City Police, is hearsay evidence if utilized to prove the robbery. The same is true with the testimony of Rebolledo concerning statements allegedly made to him by Juliet Dilli during the investigation to the effect that she had lost 3 officer's woolen suits, 3 officer's khaki suits, 1 "sharkskin" slacks, 1 wrist watch, 2 gold rings, 1 alarm clock, a pair of scissors,, and one silver bracelet. Not even did the neighbor of Juliet Dilli, mentioned on page 3 of appellee's brief as having allegedly seen Alfonso Nazario as the latter was allegedly descending the stairs, testify. The result is that there is complete failure of proof, independently of the alleged confessions, of the crime of robbery having been committed, as contended for the prosecution. It is obvious that Rebolledo had no personal knowledge of the alleged happening, nor of the alleged loss by Juliet Dilli of the above enumerated effects. In view of the failure of such independent evidence, the only source of proof which the prosecution offers for the conviction of these accused are their alleged extra-judicial confessions, Exhibits A and B. We need not dwell upon the question of whether said confessions were extracted through force and intimidation, as contended by appellants, in view of the conclusion we have reached as to their legal insufficiency under the circumstances of the instant case.

Rule 123, section 96, provides:

"SEC. 96. Extra-judicial confession, not sufficient ground for conviction.—An extra-judicial confession made by an accused, shall not be a sufficient ground for conviction, unless corroborated by evidence of corpus delicti."

Under similar circumstances, we rendered a judgment of acquittal in *People vs. Cruz* (76 Phil., 666), promulgated May 7, 1946, on the ground that the appellant's guilt therein had not been proven beyond reasonable doubt, the therein appealed decision relying mainly on said appellant's alleged extra-judicial confession, and the said confession not being corroborated by evidence of corpus delicti. (See also *United States vs. De la Cruz*, 2 Phil., 148; *U. S. vs. Agatea*, 40 Phil., 596.) It is true, as held in *People vs. Bantagan* (54 Phil., 834), that the rule does not require proof of every element of the crime apart from the confession but merely that there should be some evidence apart from the confession, tending to show that a crime has been committed: for example, in case of homicide, there should be some proof of a death, as by the production of a dead body. But in the instant case, as already mentioned above, not a single witness from his own personal knowledge testified at the trial to prove any of the elements of the crime of robbery. Appellant's guilt has not been established beyond reasonable doubt.

The judgment appealed from is reversed and the defendants-appellants acquitted, with costs de oficio. So ordered.

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

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