

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CHAN UH ET AL., DEFENDANTS. CHAN UH, APPELLANT.*G.R. No. 27592. February 16, 1928*

Ponente: MALCOLM, J.

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On December 24, 1927, with eight members of the court participating, five of whom voted to convict, and three of whom including the writer voted to acquit and so dissented, a judgment was rendered, affirming the judgment of the trial court.[1] Subsequently a motion of reconsideration was presented, which has gained the close attention of the court. To be sure of doing exact justice to the accused, the ninth member of the court, who had not theretofore taken part, read the record, and thereafter announced his vote as for acquittal on a reasonable doubt. Based on these premises, a majority of the court now entertain a different view than formerly, and have authorized the preparation and promulgation of the following decision:

Chan Uh, the defendant and appellant, together with Tan Chi Chong, Lee Tiok, Chan Chuan, Go Po, and Gaudencio Beruete, were charged in the Court of First Instance of Cavite with the crime of murder. Tan Chi Chong died subsequently. Gaudencio Beruete was acquitted on a motion of reconsideration. The remaining four Chinamen were convicted. Of these, only Chan Uh appealed. It is thus exclusively with the facts intended to connect Chan Uh with the crime that we are concerned.

Turning directly to the stenographic record of the case, a fitting introduction can properly consist of a synopsis of the testimony of the witnesses for the Government. They consisted of Rita de la Cruz, the widow of the deceased, who was sleeping when the crime occurred, and who consequently could throw little light on it; of Vicente Mallari, a municipal policeman, Enrique Martin, chief of police, and Pedro Soto, Lieutenant of the Constabulary, who investigated the occurrence; of Antonio Pelegrin, a municipal policeman, who told of trouble between Chan Uh and the deceased Co Piao Pi on March 16, 1924, or three days before the homicide; of Severo Cosca, president of the first health district of Cavite, who gave testimony as to the nature of the wounds; of Fidel Ibañez, justice of the peace, who conducted the preliminary investigation; of Tan Chee and Chua Choo Chut who claimed to have been present and to have seen the commission of the crime, whose testimony will be referred to later; of Manuel Nubia, the influence behind the prosecution; and of Lee Chong, who was presented to support the testimony of Tan Chee. In other words, not a witness for the prosecution could tell in what manner the crime was committed, or who committed it, with the exception of Tan Chee and Chua Choo. Chut.

The first noticeable point is that there were parties outside of the case who took more than a passing interest in securing a conviction. To make sure of a conviction, two witnesses, Adriano Zuniga and Nicasio Ayalde, were produced who, for an inducement, were to testify against the accused. This scheme did not work on account of the retractions made by Zuniga and Ayalde before the trial. Accordingly, some seven months later, to occupy the places of Zuniga and Ayalde, the witnesses Tan Chee and Chua Choo Chut were fortunately discovered to tell on

the witness-stand how they had been present and had been spectators of the crime. But the trial judge found that "the testimony of Tan Chee and Chua Choo Chut and Exhibits Q to Q-2 do not inspire entire confidence in the court," with the result that their testimony was rejected—and properly so.

We have as one fact, therefore, that an attempt was made to frame the case for the Government. We have as a second fact that, excluding the testimony of Tan Chee and Chua Choo Chut, a conviction must rest entirely on circumstantial evidence.

The principal circumstances bound together to make out a supposed case for the prosecution will now be commented upon. In the first place, there is the admitted public scandal caused by the accused and the deceased a few days before the crime. But this proves nothing unless it be a surmise as to a possible motive for resentment. It may be that out of the trouble came rancor produced in the heart of the accused who provoked the fight. Yet the opposite hypothesis is as easily sustainable. In addition to this are the undeniable points that Chan Uh was in the building when the fight took place, and that he received a wound in the head. But as to reasonable deductions flowing from these facts, we can only guess, even accepting the facts in the most favorable light for the prosecution, as to whether or not Chan Uh was the aggressor or acted in self-defense. The possibility is not removed that there were two fights; that the deceased first attacked the accused, wounding him in the head; and that thereupon the other Chinamen surrounded the deceased, and hacked him to pieces with their knives.

Then, in addition to the two facts which we have mentioned, there is the third fact that the Chinaman Go Po confessed his guilt, and in affidavits made before the justice of the peace of Cavite a few days after the crime, gave a description of the fight, which tallies exactly with the explanation proffered by the accused. Go Po swore to this: "For a long time Go Piao Pi (the deceased) had been telling me that he would kill my father and mother and it greatly incensed me. From time to time when he saw me he would shout at me certain insults which angered me. At 9 o'clock on the night of March 19, 1924, I hid in the kitchen where Go Piao Pi died. I entered through the back door so that nobody saw me when I entered. I had with me a piece of iron nearly sixteen inches long and a knife about eight inches long, which, after I killed him, I threw into the sea * * *. After I killed Go Piao Pi, old Chan Uh (the accused) called at the door and wanted it to be opened, so I struck him on the head. After I struck Chan Uh on the head, I ran outside the interior of the bakery. I killed Go Piao Pi by striking him on the head with the iron I had with me, and when he fell down I stabbed him with the knife. This is the whole truth which I have voluntarily told without compulsion from anybody."

As previously stated, a conviction in this instance must necessarily rest exclusively on circumstantial evidence. The law recognizes the rule that while a defendant may be convicted upon circumstantial evidence, yet such evidence must be consistent with and point to the defendant's guilt, beyond a reasonable doubt, and be inconsistent with his innocence. (U. S. vs. Douglass [1903], 2 Phil., 461; U. S. vs. Reyes [1903], 3 Phil., 3; U. S. vs. Villos [1906], 6 Phil., 510; U. S. vs. McCormick [1910], 15 Phil., 185.) So if the inference of guilt of murder rests solely upon circumstantial evidence such evidence must be grave and conclusive, and the conviction which the combination of evidence produces must leave no room for reasonable doubt of the criminality of the accused in the ordinary and natural order of things. (U. S. vs. Santos ([1902], 1 Phil., 222.)

In our opinion, the circumstantial evidence presented in this case fails to exclude every other reasonable hypothesis but the single one of guilt. We may suppose that Chan Uh was a participant in the crime, but we cannot be certain. We may suppose that Chan Uh, angered at the deceased, attacked him along with the other Chinamen, and in the melee received a wound, but we cannot be certain. Just as surely may we suppose that the deceased and Chan Uh were eating together; that a dispute arose between them which caused the deceased to assault Chan Uh, but which resulted fatally for the deceased, when the other Chinamen swarmed around and killed him. We may also suppose that Go Po was telling the truth when he admitted the commission of the crime

for it would hardly be conceivable that he would willingly unlock the portals to prison in order to protect others.

Conviction must be founded on facts and not on a series of presumptions withstanding the framed witnesses for the prosecution, the lack of reliable corroboration of the circumstantial evidence, and the admission of guilt by another. With that the state of the record, we cannot say that this old Chinaman should be convicted and confined in prison for more than seventeen years. A prolonged study of the record in this case leaves us with very grave doubts as to the guilt of the appellant Chan Uh of the crime of homicide.

As responsive to the foregoing, the motion of reconsideration will be granted; the decision of this court previously handed down will be set aside; the judgment appealed from will be reversed, and the defendant and appellant will be acquitted, with a one-sixth part of the costs of the first instance and all of the costs of this instance de officio. So ordered.

Johnson, Ostrand, Romualdez, and Villa-Real, JJ., concur.

[1] Not reported.

CONCURRING

STREET, J.:

Although I read the proof carefully before voting for the affirmance in this case and believed then that the conviction was correct, I have nevertheless recognized from the beginning that the case is a close one, and as another member of the court, after a conscientious study of the record, has announced his adherence to the view favoring acquittal, I am, after further reflection on the case, constrained to recognize the propriety of giving the accused the benefit of the reasonable doubt. I therefore concur in the reversal.

DISSENTING

VILLAMOR AND JOHNS, JJ.:

We dissent, and for the reasons stated in the original decision, are of the opinion that the defendant and appellant has been proved guilty beyond a reasonable doubt, and that accordingly the judgment should be affirmed.

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