

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FLORO RUBIA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 28792. October 06, 1928

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The accused Floro Rubia, Macario Teoxon, Eduardo Rubia, and Juan Rubia were prosecuted in the Court of First Instance of Camarines Sur, for the crime of murder committed as alleged in the following information:

"That on or about the 13th of September 1927, in the municipality of Caramoan, Province of Camarines Sur, Philippine Islands, and within this court's jurisdiction, the aforementioned accused, confederating and mutually aiding one another, criminally, unlawfully, and voluntarily, with treachery and premeditation, attacked and struck one Pedro Suino in the chest with an oar, and strangled him, in the middle of the sea, with the intention of killing him, as a result of which, the said Pedro Suino died on the spot.

"Contrary to law."

After due trial, the court found the defendants guilty of the crime of homicide, and considering the aggravating circumstances of deceit, uninhabited place and abuse of superior strength, sentenced Floro Rubia and Macario Teoxon to twenty years' reclusion temporal with the accessories of law, to indemnify the deceased's heirs in the sum of P1,000 jointly and severally, and each to pay one-fourth of the costs. And as to the defendants Eduardo Rubia and Juan Rubia being only 15 and 13 years old respectively, the court suspended the sentence and ordered their confinement in the Training School for children at San Juan del Monte, Rizal, until they reach their majority.

Defendants appealed from this judgment. Counsel alleges that the trial court erred: (a) In finding that the death of the deceased was caused by strangulation or other violent way; (b) in finding that the defendants had motives for killing the deceased; and, (c) in convicting the defendants on the strength of the evidence.

On the night of September 12, 1927, the four defendants, who then lived at Canlong, municipality of Caramoan, Camarines Sur, went in a good-sized boat to Malindong Island, in Lagonoy Bay, of the said municipality, where Pedro Suino lived. The following morning they went in search of Pedro Suino in his house. As Suino was still asleep, they went away intending to return later, as, in fact, they did, and Floro Rubia asked Pedro Suino if he was going fishing, and having received an affirmative reply, they invited him to go with them, since they, too, were going fishing. At about noon they left for the sea, Pedro going alone in his banca, while the four went in theirs. At about 4 o'clock in the afternoon, one Pantaleon Cordial, of the same barrio, while fishing, saw a banca a short distance away, but without any occupant. Fearing that the owner of the boat had met with an accident, he returned home in haste and told Pedro's wife of what he had seen. The woman begged two men to go and see what had happened to her husband, and they found Pedro Suino dead in his banca, which was anchored, with scratches around his neck, on the left side of his chest and on his left arm. The men whom Suino's wife had called upon, Geronimo Lopez and Graciano Castor by name, rowed Suino's banca to the shore.

Undoubtedly Pedro Suino was the victim of a criminal assault. The defense alleges that Pedro Suino died of an electrical shock. But the body of the deceased was examined by a health officer who performed an autopsy on October 11th, and he positively affirmed that death was not produced by an electrical shock, but by strangling or some other violent means. Not a single trace of an electrical discharge has been found either in the banca or on the deceased's body.

Who killed Pedro Suino?

Pedro and Juan Delloro, brothers, substantially testified that while they went about in their banca at about 2 o'clock in the afternoon in question, they saw Pedro Suino in the defendants' boat, while Suino's banca lay alongside of it; that Floro Rubia struck Suino in the chest with an oar and Macario Teoxon strangled him, after which they lay in the bottom of their boat, and remained out of sight because at that time it was thundering and raining hard; and that the said witnesses were about 20 brazas from the defendants' banca but they were afraid to go near it.

Speaking of these witnesses, the trial judge says that notwithstanding the defendants' denial, they are worthier of belief, because, as they lived in different barrios they could not have had any motive for testifying falsely against the accused in a crime so grave as that charged in the information. It is true that there are some contradictions in their testimony, and at first Julian Delloro denied that he wrote the letter to the chief of police denouncing the crime, which he admitted later on, when told that his brother Juan accused him of the crime; nevertheless, the court was satisfied that in substance, they told the truth.

The slayers of Pedro Suino can be no others than the defendants. On September 10th, Pedro Suino and some friends went over to Canlong, the barrio where the defendants lived, in order to serenade a young lady named Lazara who lived in the house of the accused, and whom the deceased was courting Floro Rubia, the owner of the house, told Suino and his companions that they were disturbing him. Some witnesses testify that there was an interchange of words between Floro and Suino, although their testimony is not entirely explicit as to this detail. In view of Floro's attitude, the serenaders immediately returned to their homes except Pedro Suino, who remained there until the following morning; but there is nothing in the record to indicate what happened, if, indeed, anything did happen, after the departure of Suino's companions.

The statements made by the defendants under oath before the justice of the peace who conducted the preliminary investigation corroborate the testimony given by the witnesses for the prosecution, the Delloro brothers. While Floro Rubia states that Pedro Suino died as a result of a collision between the two bancas, Eduardo and Juan Rubia, brothers, affirm that Macario Teoxon and Floro Rubia killed Pedro Suino and put the body in the latter's banca.

The defendants pleaded an alibi, but this defense fails to rebut the positive statements made by the witnesses for the prosecution.

The act proven constitutes the crime of homicide, defined and penalized in article 404 of the Penal Code, for which the defendants Floro Rubia and Macario Teoxon are criminally liable by direct participation. The aggravating circumstance of the crime having been committed in an uninhabited place must be considered, the incident having taken place at sea where it was difficult for the offended party to receive help, while the assailants could easily have escaped punishment, and the purely accidental circumstance that on the day in question another banca, namely, that belonging to the witnesses, the Delloro brothers was also at sea, there is no argument against said circumstance being taken into consideration. (U. S. vs. Angeles, 6 Phil., 480; U. S. vs. Maharaja Alim, 38 Phil., 1.)

The aggravating circumstances of craft and abuse of superior strength cannot be considered in this case; the first, because the mere invitation extended by the defendants to the deceased to venture out to sea with them, but itself alone does not constitute a deceitful means leading to the commission of the criminal act; and the second, that is, abuse of superior strength, because there is no proof that the two accused simultaneously assaulted the deceased with their oars, with the object of weakening whatever defense the assaulted party might put up. And there being no extenuating circumstance present, the penalty must be imposed upon the defendants in its maximum degree, that is, seventeen years, four months, and one day, to twenty years' reclusion temporal, with the accessories of law.

As the guilt of defendants Eduardo Rubia and Juan Rubia has not been proved beyond a reasonable doubt, they should be, and as they are hereby, acquitted.

Wherefore, the appealed judgment must be, as it is hereby, affirmed in so far as it relates to defendants Floro Rubia and Macario Teoxon, with one-fourth of the costs against each; and said judgment is reversed with respect to the two defendants, Eduardo Rubia and Juan Rubia who are hereby acquitted, with their part of the costs de oficio. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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