

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. BLANDINA ISTORIS, DEFENDANT AND APPELLANT.

G.R. No. 30305. March 25, 1929

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

In this case against Blandina Istoris, the prosecution contends that she murdered her husband, Apolonio Barrientos, who, according to the defense, having been mentally unbalanced, is suspected to have committed suicide.

The Court of First Instance of Capiz sentenced her to twelve years and one day reclusion temporal, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs.

She appeals from that judgment, and her counsel assigns several errors in his brief.

To our mind, the most important incriminating testimony, which is that given by Alfonso Sucgang Valeriano, suffers from such inconsistencies and improbabilities that we deem it dangerous in the interest of justice to accept it as the only evidence for the prosecution. The motive of the alleged aggression in view of the preceding facts, the form of the aggression itself in view of the details as related, the fearless cold-bloodedness displayed by this witness in sleeping quietly on the night in question in the same house where he assures us the crime was committed, almost at arm's length from the corpse of the supposed victim, strange in themselves but altogether incongruous with the self-confessed timorous nature of this witness, constitute evidence unfavorable to the credibility of his testimony. If to this is added the refutation which is, to a certain degree effective, made by the defense against the veracity of the testimony of this witness, we become still more convinced of the scant value of such evidence of conviction.

Venancio Moises' declaration, which in itself is difficult to believe, is, that while he was up in a coconut tree getting tuba, he saw the defendant and her companions hanging up the corpse in a camarin which, according to the evidence, was roofed, is not worthy of credit. Hilario Garcia's testimony that the cries of help he heard were Apolonio Barrientos', is mere hearsay from his brother. The testimony of the other witnesses presented by the prosecution is of little importance.

The evidence of the prosecution is not, to our mind, sufficient to hold the defendant guilty beyond a reasonable doubt of the crime in question which, committed, according to the prosecution, in September, 1924, was only denounced in the year 1927, without satisfactorily explaining at the trial so prolonged a, silence on the part of those who now claim to be aware of the crime, nor how Apolonio Barrientos' death, caused by his own wife, could have been kept a secret so long.

Although this court has repeatedly held that it would not disturb the findings of fact of the trial court as to the credibility of witnesses, nevertheless, when, as in the instant case, we find sufficient cause in the record to warrant a departure from such findings, proper corrections should be made, inasmuch as it is incumbent upon this court to

determine the guilt or innocence of the defendant in view of the evidence presented during the trial, as held by the Supreme Court of the United States in the case of *Pendleton vs. United States* (216 U. S., 305; 54 Law. ed., 491; 40 Phil., 1033).

The appealed judgment is reversed, and the defendant is hereby acquitted, with costs de oficio, and all other favorable pronouncements. So ordered.

Johnson, Malcolm, Ostrand, Johns, and Villa-Real, JJ., concur.

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