

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BENITO LUGO AND VALENTIN LUGO, DEFENDANTS AND APPELLANTS.

G.R. No. 3324. March 18, 1907

Ponente: TRACEY, J.

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TRACEY, J.:

Sadoca Ramos, a woman over 60 years of age, far gone in consumption, was assaulted after midnight in her house where she was sleeping with her granddaughter. Seven wounds were inflicted upon her, two of which, one in the face and one on the wrist, were serious in character. About eight days after this occurrence she made her declaration in accordance with paragraph 5 of section 15 of General Orders, No. 58,[1] and about a month after the attack she died. The doctor who attended her, giving his opinion that her death was the consequence of her wounds, testified with such qualification as to leave in doubt whether it was not the result of her chronic disease. On the two occasions on which he examined her, he was uncertain as to the length of time she would probably be laid up by her wounds, and did not appear then to entertain the idea that they would prove fatal; nevertheless we are constrained to accept his final answer that they were mortal in character.

It is well settled in Spanish jurisprudence that, under such circumstances, in the absence of positive proof to the contrary, the death will be presumed to have been caused by the wounds, which is quite in harmony with the American rule as stated by Bishop in his Criminal Law. (Vol. 2, sec. 638, subsection 3.) The doctrine of this court is found in *U. S. vs. Bertucio*, 1 Phil. Rep., 47; *U. S. vs. Regis*, 2 Phil. Rep., 113; *U. S. vs. Embate*, 3 Phil. Rep., 640; *U. S. vs. Luciano*,[1] 1 Off. Gaz., 398; *U. S. vs. Navarro*,[2] No. 1878, March 9, 1907.

The effect of these collated decisions applied to the facts of the present case may be stated thus: Where a person previously ill is wounded in a manner that might have proved fatal, his death within a reasonable time thereafter will, in the absence of cogent evidence to the contrary, be considered the result of the wounds rather than of the disease.

There is also a serious question as to the identification of the defendants. At the time of the attack there was no light in the house nor any moon outside. In her declaration Sadoca Ramos positively identified these two defendants as her assailants, saying that she recognized them as they made their way through the open door. The granddaughter, Maria Ferrer, an intelligent child of 13 years, also positively identified them, testifying that when the door was opened there came a little light from the stars, and that she recognized the voices of the men, although from her answers to the questions of the judge it appears that but one of the men spoke, saying on going out of the house, "That rayo of a woman is still living."

Benito Lugo lived near by with his brother Juan and had been for two years working the land of Sadoca Ramos, receiving in pay from her a share of the crops. According to the testimony of all the witnesses, including the woman herself, they were on the best of terms, never having had a misunderstanding. Valentin Lugo lived in another part of the settlement, at a distance of about two hours' journey and was unacquainted with the deceased. There is entire absence of motive for the assault on the part of either man. Each of them has sought to prove an

alibi, by the testimony of many witnesses, who being more or less ignorant of the computation of time, all broke down in matching dates. The manner of the examination, however, leaves the good faith of their testimony open to belief. It is not suggested in the record that there was a motive for the attack on the deceased woman on the part of any other third person or that suspicion pointed to anybody in particular. The majority of the court think that the proof establishes the guilt of the defendants.

The Court of First Instance found both the accused guilty of the crime of murder (asesinato), with three aggravating circumstances, but condemned them to cadena perpetua. The Attorney-General, taking the ground that there was alevosia, and the aggravating circumstance of a crime committed in the dwelling house of the injured woman, suggests the death penalty for both men, with indemnity and costs.

There was plainly alevosia in the manner of the attack, qualifying the homicide as murder. The aggravating circumstance invoked by the Attorney-General must also be allowed, but it is counterbalanced by the application of article 11 of the code, rendered proper by the personal condition of the two men; in consequence punishment is imposed in its medium grade, and the accused are sentenced to life imprisonment (cadena perpetua) with indemnity by them, jointly and severally, payable to the heirs of the deceased in the amount of 1,000 pesos, and the costs of this instance. After the expiration of ten days, let judgment be entered in accordance herewith, and ten days thereafter let the case be remanded to the lower court for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Willard, JJ., concur.

[1] I Pub. Laws, 1084.

[1] 2 Phil. Rep., 96.

[2] 7 Phil. Rep., 713.

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