

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JUAN ALAMBRA AND ELENO GARCIA, DEFENDANTS AND APPELLANTS.

G. R. No. 33526. January 22, 1931

Ponente: JOHNSON, J.

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JOHNSON, J.:

On February 14, 1930 the deputy provincial fiscal of & Province of Nueva Ecija filed an information in the of the justice of the peace of the municipality of Carranglan of said province, charging the defendants with crime of murder. After a preliminary investigation the justice of the peace found that there was reasonable ground for believing that the defendants committed the crime and held them for trial in the Court of First Instance of the Province of Nueva Ecija.

On the 28th day of February, 1930, an information was filed against the defendants charging them with the crime of murder, The information alleged:

"That on or about the 26th day of December, 1929, in the municipality of Carranglan, Province of Nueva Ecija, Philippine Islands, and within the jurisdiction of this court, the above-named accused, Juan Alambra and Eleno Garcia alias Andoy, confederating with each other and mutually aiding one, another with treachery, evident premeditation and with cruelty by deliberately and inhumanly increasing the suffering of the offended party, and in an uninhabited place, did then and there with intent to kill voluntarily, maliciously, illegally, and criminally attack and bolo Fulgencio Casupartg alias Florencio inflicting upon the latter several mortal wounds on the different parts of the body, and as a consequence of which said Fulgencio Casupang alias Florencio died instantly.

"In the commission of the crime the aggravating circumstance of an uninhabited place concurred.

"Contrary to law."

Upon arraignment the defendants pleaded not guilty, were tried, found guilty of the crime charged, with the qualifying circumstance of treachery, without any aggravating or mitigating circumstances, and sentenced to suffer the medium degree of the penalty provided by law, or cadena perpetua, with the accessory penalties, to indemnify jointly and severally the heirs of the deceased in the sum of P500 and each to pay one-half part of the costs. The lower court recommended a deduction of one-half of the time during which the defendants Were held as detention prisoners. The dispositive part of the decision reads as follows:

"En su virtud, el Juzgado declarando a estos dos acusados culpables del delito de asesinato de que se halla acusados en la presente causa, por haber matado a Futgecio Casupang, concurriendo la circunstancia cualificativa, 1. del articulo 403 o sea, la alevosia, condena a cada urio de ellos a cadena perpetua, con las accesorias de ley; a pagar mancomunada y solidariamente una indemnizacion de quinientos pesos a la familia del occiso Fulgenciosin prision subsidiaria en caso de insolvencia vedad de la pena principal. Pagaran por mitac asupang, a la graas costas del proceso. En el cumplimiento de su conde les sera de abono la mitad del

tiempo que hayan estado preventivamente presos."

From that sentence the defendants appealed They now contend that:

- The lower court erred in giving credit to the testimony of the witnesses for the prosecution, particularly Mercurio Tambuyac, a boy, 14 years of age; and
- The lower court erred in considering Exhibit B as an admission of guilt by the appellant Juan Alambra.

We have carefully examined the testimony of the witnesses for the prosecution and the defense and find no reason for not sustaining the findings of fact and conclusions of the lower court. A close examination of the testimony of the witnesses for the prosecution fails to disclose any material inconsistency, contradiction or any other defect which might reflect on the veracity or sincerity of said witnesses. In view thereof, and taking into consideration that the lower court saw and heard the witnesses and had full opportunity to observe their conduct and demeanor on the stand and their manner of testifying, we are of the opinion that the trial judge committed no error in giving full credit to the testimony of the witnesses for the prosecution.

With reference to the boy Mercurio Tambuyac, 14 years of age, who was the only eyewitness to the commission of the crime, we find that his testimony gives a clear and simple description of the manner how the appellants killed the deceased Fulgencio Casupang. Substantially he testified as follows: That he and the appellants were out in the country to fish; that the appellants, seeing that Casupang was coming, hid behind a tree and that, by order of the appellants, he (the witness) also hid in a thicket; that as Casupang passed by the appellants, the latter suddenly attacked him with clubs; that he (the witness) ran home; and that the next morning he was warned by the appellants not to say anything, for otherwise they would kill him.

Speaking of the reliability of this boy as a witness, the lower court said:

"El juzgado que ha tenido en su presencia a este testigo, a este niño y a quien declare competente para declarar despues de haberle sometido a unas preguntas en forma de intelligence test, esta convencido de que este niño ha declarado aqui ingenuamente, con toda sinceridad, sin estar influenciado. Y con la experiencia que el Juzgado tiene en oír testigos y juzgar por su actitud y conducta ante el Juzgado hasta que grado de veracidad merece su testimonio, da toda la credibilidad que se merece este testigo. Los otros testigos del Gobierno corroboran, asi como sus otras pruebas, todo lo declarado por este niño."

Doctor Hans Gross, a well known Austrian jurist and expert in criminology, speaking of the weight to be attached to the testimony of the youths, says:

"An intelligent boy is undoubtedly the best observer to be found. The world begins to take him by storm with its thousand matters of interest; what the school and his daily life furnish cannot satisfy his overflowing and generous heart. He lays hold of everything new, striking, strange; all his senses are on the stretch to assimilate it as far as possible. No one notices a change in the house, no one discovers the bird's nest, no one observes anything out of the way in the fields; but nothing of that sort escapes the boy; everything which emerges above the monotonous level of daily life gives, him a good opportunity for exercising his wits, for extending his knowledge, and for attracting the attention of his elders, to whom he communicates his discoveries. The spirit of the youth not having as yet been led astray by the necessities of life, its storms and battles, its factions and quarrels, he can freely abandon himself to everything which appears out of the way; his life has not yet been disturbed by education, though he often observes more clearly and accurately than any adult. Besides, he has already got some principles; lying is distasteful to him, because he thinks it mean; he is no stranger to the sentiment of self-respect, and he never loses an opportunity of being right in what he affirms. Thus he is, as a rule, but little influenced by the suggestions of others, and he describes objects and occurrences as he has really seen them. We say again that an intelligent boy is as a rule the best witness in the world." (As quoted by this court in *People vs. Bustos*, 45 Phil, 9, 35, 36.)

With reference to the contention that Exhibit B should not have been considered by the lower court as an admission of guilt on the part of the appellant Juan Alambra, we deem it unnecessary to discuss the probatory value of said exhibit. Suffice it to say that, independent of said Exhibit B, there is abundant proof showing beyond a reasonable doubt that the appellants acting treacherously, did at the time and place mentioned in the information, kill the deceased Fulgencio Casupang.

The Attorney-General in a very carefully prepared brief arrived at the conclusion that the appellants are guilty of the crime of murder as found by the lower court, and recommends that the sentence appealed from be affirmed.

In view of all of the foregoing, and in conformity with the recommendation of the Attorney-General, the sentence appealed from is hereby affirmed, with costs. So ordered.

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

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