

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ESTEBAN MONES, IRINEO MAGUNCIA, FAUSTINO ELMIDO, AND IGNACIO GAGUA, DEFENDANTS AND APPELLANTS.

G.R. No. 37712. March 06, 1933

Ponente: STREET, J.

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STREET, J.:

This appeal has been brought to reverse a judgment of the Court of First Instance of the Province of Pangasinan, finding the appellants, Esteban Mones, Irineo Maguncia, Faustino Elmido, and Ignacio Gagua, guilty of robbery in band with quadruple homicide and sentencing each of them to reclusion perpetua, with the accessories prescribed by law, and requiring them jointly and severally to indemnify each of the heirs of the four victims in the amount of P1,000, and to indemnify the heirs of Manuel Mico and Adriana Aganon in the further amount of P100, as well as to pay the costs of prosecution.

Shortly before midnight on the rainy night of August 27, 1931, a fire consumed the house of Manuel Mico in the barrio of Nampalcan, municipality of Umingan, in the Province of Pangasinan. Four persons were then living in the house, namely, Manuel Mico and his wife, Adriana Aganon, and two small children, Juana Obina and Domingo Obina, and the charred trunks of all four were found in the debris of the fire. In houses not far removed from the fire lived two sons of the elderly couple, and these, with others living in the same houses or nearby, were attracted by the flames or attendant noise. They arrived on the scene, however, too late to be of any assistance in stopping the fire.

Early in the morning the justice of the peace, the municipal president, and the district health officer came to view the premises; and the latter testified that the dead bodies of the four human beings were so badly burned that he could not determine whether violence had been used upon the deceased prior to the fire, though he noticed that the intestines of one of the children protruded from an orifice in the trunk. It was naturally assumed that the fire had been of accidental origin.

In about two weeks, however, a letter containing an illegible signature was received by the local Constabulary authorities in which it was stated that the four persons responsible for this fire and the death of the four inmates of the house were the four accused, namely, Faustino Elmido and Irineo Maguncia, of Santa Mariaan, of the municipality of San Quintin, and Esteban Mones and Ignacio Gagua, of the barrio of Nampalcan, in Umingan. It was later discovered that this letter had emanated from Ulpiano Velasquez, a resident of Umingan, and further inquiry revealed the fact that his informant was one Santiago Origenes. This Origenes had a wife or querida named Pastora Maguncia, a sister of Irineo Maguncia, and she was at this time staying in the home of Faustino Elmido, who was married to the mother of Pastora Maguncia, and her brother, Irineo Maguncia. In the meantime Origenes was living in San Quintin. In the afternoon of August 27, 1931, it occurred to Santiago Origenes to visit the house of Faustino Elmido, where Pastora Maguncia was staying. After his arrival Faustino Elmido and Irineo Maguncia, who were of course on intimate terms with Santiago, informed him that they were going that night to

the house of Ignacio Gagua, otherwise known as Ignas, upon a mission that was expected to result in gain. They accordingly invited Santiago to accompany them. The latter declined, on the ground that he was already tired, preferring, no doubt, to spend the time with Pastora.

Very early the next morning, while it was yet dark, Faustino and Irineo returned, and informed Santiago and other inmates of the house that if any investigation should later be made, they must keep quiet, and that they should not inform anybody that Faustino and Irineo had been to Umingan that night. To this Santiago gave his assent. Faustino and Irineo then went to sleep, and did not arise until the forenoon was well advanced. When they came down the conversation relative to the doings of Faustino and Irineo during the previous night was resumed. In the course of this conversation Faustino gave Santiago to understand that the haul had netted only P100, of which Ignacio Gagua had been given the sum of P16. The net result of the talk was that Santiago inferred that the two had been out on a robbing expedition and that Esteban Mones and Ignacio Gagua were participants in the adventure.

As a result of the information obtained from this individual the four accused were arrested on September 18, 1931, and taken before the justice of the peace in Umingan. Lieutenant J. G. Polotan of the Philippine Constabulary, stationed at Tayug, Pangasinan, was then called in; and upon arriving in Umingan, he found the four accused under detention. The accused were then severally brought before the justice of the peace and subjected to examination, when Gagua admitted that he had seen the crime committed by the other three, but he refrained from incriminating himself.

By this time it was already night, and an attorney, Pedro Aquino, who appeared as representative of the two San Quintin culprits, suggested to Lieutenant Polotan that he should take the four prisoners for examination to Tayug. His idea seems to have been that in Umingan influences might be brought to bear that would affect the result unfavorably to his clients. Lieutenant Polotan adopted this suggestion, and he and two of the prisoners embarked in Aquino's car for Tayug. The other two prisoners and their custodians got into a carromata, which was supplied by the same Aquino, and followed to Tayug, arriving at about 8.30 or 9 o'clock. Among those present was Santiago Origenes who had been brought along from San Quintin. When all were collected in the barracks in Tayug, Lieutenant Polotan went down and began questioning the accused. At first each of the four was questioned separately. Later they were confronted. After some questioning Gagua explained to Lieutenant Polotan some of the details of how the crime was committed, although he still insisted that he only waited down below at the house of Mico while the other three accused accomplished the robbery, murder, and arson.

One of the incidents of the examination was that Esteban Mones, upon hearing that he was being incriminated by Gagua, jumped towards Gagua and attempted to assault him. Lieutenant Polotan says that seeing that Mones was threatening the old man (Gagua), he seized them both by interposing his hands on the chest of each, and warned Mones that if he should continue to misbehave he would be handcuffed. The examination then proceeded and in time each of the four gave his separate confession.

It appears that the four accused speak Ilocano, a language not known to Lieutenant Polotan; and Sergeant Villasista, who reduced the confessions to writing, acted as interpreter. These proceedings took up a good part of the night and it was 3 o'clock or later in the morning when the reduction of the statements of the four accused to writing was finished. At the conclusion of each of the separate statements it was read over to the accused to whom the statement pertained, and each signified his conformity with the contents as interpreted to him. Lieutenant Polotan did not, however, cause either of the accused then to sign his confession, as the lieutenant preferred to have that act done in the presence of a justice of the peace. For some reason or other the justice of the peace of Tayug was not available the next morning for this service and the four accused were returned to the town of Umingan, where they were again taken before the justice of the peace of that municipality. Upon being brought

before this official three of the accused signed the statements prepared for them, but Irineo Maguncia, acting upon the suggestion which had reached him from his lawyer, refused to sign the statement prepared for him, and Esteban Mones, though he signed his statement, said that he would not have admitted the facts contained therein if he had not been maltreated the night before.

An incident connected with the appearance of the four accused before the justice of the peace was this: Gagua stated in the written confession signed by him that he had received P16 of the money which had been taken from Manuel Mico, and when this part of the confession was reached in the reading of the same to him, the justice of the peace asked the declarant to point to the place where the money had been delivered, which was on a public street only a short distance from the court. The declarant indicated the spot and the justice of the peace in fact repaired to that place with the declarant and others, and upon reaching the place, Gagua demonstrated the act of the division of the spoil at that place. Translated into English, the three confessions signed by three of the accused are as follows:

"I, Faustino Elmido, 40 years of age, married and resident of the municipality of San Quintin, Pangasinan, P. I., after being duly sworn in accordance with law, declare as follows:

"I remember very well without hesitation that on the morning of the 27th of August of this year, 1931,—I cannot remember the day—Esteban Mones, of Umingan, came to my house in the barrio of Casantamariaan, San Quintin, Pangasinan, at 8 o'clock, and told me the following: 'Compadre, if you wish, you come to Umingan for we will go and get money.' I asked him who would go with us and he gave me the names of Irineo Bagoncia and old man Ignacio Gagua of Umingan. I also asked him whose money was it that we would get and he said that it was the money of his uncle, Manuel Mico, of the barrio of Nanpalcan, Umingan, Pangasinan. I acceded to his proposal and so he returned to the municipality of Umingan and left a word that Irineo Bagoncia and I should follow later in the afternoon of the same day.

"After taking my supper that evening, I dropped in at the house of Irineo Bagoncia and, with him, proceeded to Umingan. On reaching the town of Umingan, we called on the old man Ignacio Gagua in his own barrio. Then we proceeded with him to the house of Esteban Mones where we held a conference for about less than an hour. Thereafter we again proceeded to the house of Manuel Mico whom we killed that same night. It was about 10 o'clock when we reached that house (Mico's). The first one who went up the house was Esteban Mones, himself the nephew of the old man Manuel, followed by Irineo Bagoncia, myself, and Ignacio Gagua in the order named. On coming to the house of the said Manuel Mico, we found four persons sleeping, namely, old man Manuel, his wife, and two children, a girl and a boy. Esteban Mones approached the old woman who was sleeping and boloed her; Irineo Bagoncia also approached the old man who was also sleeping and boloed him to death; I, myself, boloed the girl; and the old man Ignacio Gagua also boloed the boy. Soon after the old man Manuel Mico and his wife and two grandchildren died, Esteban Mones went to the place where their trunk was, cut its lid with his bolo, and, after taking the money which was our objective upon forcing the trunk open, enjoined us to go. I then stepped down, with the old man Ignacio Gagua and Irineo Maguncia following me. Esteban Mones came down later, as he first set the roof of the house on fire. As he came down, he again set the shed (patag-guab) on fire, after which we all went home. As we parted, Esteban Mones instructed us to meet together the following morning at the town of Umingan where, he said, he would give us our share of the booty (money).

"On the morning of the 28th of August, of this same year, 1931, before noon, I left San Quintin for Umingan in company with Irineo Bagoncia. As we reached the town of Umingan, we found our companions in the poblacion and then and there we were given our shares in the following amounts:

Amount given to Irineo Bagoncia

P15.00,

One 10-peso bill and one 5-peso bill.

Amount given to me

15.00,

One 10-peso bill and one 5-peso bill.

"I do not know how much was given to the old man Ignacio Gagua, as he was handed a roll of bills.

"All the statements hereinabove given are true. They are given freely without threat and inducement. And in witness whereof, I hereunto press my right thumb below, as I do not know how to write."

"I, Ignacio Gagua, of age, married, farmer, and resident of the barrio of Nanpalcan, Umingan, Pangasinan, P. I., after being duly sworn in accordance with law, without force and intimidation having been exerted upon me, declare as follows:

"That on the 27th of August of this year, 1931, at about 10 o'clock p. m., Irineo Maguncia and Faustino Elmido of San Quintin called at my house and invited me to go to the house of Esteban Mones and later to that of Manuel Mico in the barrio of Nanpalcan, Umingan. Upon reaching his house, Esteban Mones gave Irineo Bagoncia a bolo, and then we all proceeded to the house, of the old man, Manuel Mico, armed with bolos. Upon arriving at the house of the said Manuel Mico, Esteban Mones went up the house, and he was followed by Faustino Elmido, Irineo Maguncia and myself in the order named. As we entered the house, Esteban Mones took hold of the left arm of the old woman Adriana with his right hand and then struck her with his bolo twice. I did not notice on which parts of the body of Adriana the blows landed as I was then in the act of striking the little boy with my bolo on the left side below his armpit. Faustino Elmido also struck the little girl with his bolo, but I could not notice how many blows he gave her. Irineo Maguncia also struck the old man, Manuel Mico, with his (Maguncia) bolo twice. I did not notice on which parts of the body of the old man the blows landed. Soon after these persons died in the house, Esteban Mones cut the lid of their trunk and forced it open. After taking the money contained in the trunk, he ordered us to go down. He came down later, as he first set the roof of the house, just above the door, on fire. As he came down, he again set the shed (patag-guab) south of the ladder of the house on fire. As the house was in flames, we all went home with instructions from Esteban Mones to meet together the following day in the town of Umingan where he would give us our share of the booty.

"That on the morning of the 28th of the same month and year, I went to the town and found Esteban Mones on a corner of a road South where we all met together. Then and there Esteban Mones handed me the amount of P16: one 10-peso bill, one 5-peso bill and one 1-peso bill. After receiving my share I went home and the others also returned home.

"All the statements hereinabove given are true. They are given without anybody inducing me or exerting undue influence upon me. And in witness whereof, I hereunto press my right thumb between my name and my surname, as I do not know how to write, this 19th day of September, 1931, in the municipality of Umingan, Pangasinan, P. I."

"I, Esteban Mones, 35 years of age, single, born in Bacnotan, La Union, and actually residing in the municipality of Umingan, Pangasinan, for the last seven years, whose occupation is farmer, after being duly sworn in accordance with law, declare as follows:

"That one day in the month of July of this year, 1931, my uncle, Manuel Mico, of the barrio of Nampalcan, Umingan, sold a hog for P30. Five days after the sale, I went to him to ask for a loan of P5 on account of my extreme poverty. I was not favored with the loan asked of him and so I thought of committing wrong.

"That on account of the ill-feeling I harbored against my uncle, Manuel Mico, for his refusal to give me a loan, I went to my friends, Irineo Maguncia and Faustino Elmido, in the municipality of San Quintin on the morning of August 27 of this same year, 1931, and told them of the money that my said uncle then had. We then agreed then and there to get the money of my uncle, Manuel Mico, at any cost. We further agreed to get the money on the night of the same day or the day when I went to the houses of the said Irineo Maguncia and Faustino Elmido.

"After our conference, I returned home in Umingan with the understanding that they (Irineo Maguncia and Faustino Elmido) would call on me at my house.

"That at about 7 o'clock in the evening, Irineo Maguncia and Faustino Elmido together with the old man Ignacio Gagua dropped home.

"That a few moments after their arrival at home, we started off together, including the old man Ignacio. We brought bolos with us. As Irineo Maguncia came home without a bolo, I furnished him one.

"On arriving at the above-named house of my uncle, Manuel Mico, I went upstairs, followed by Irineo Maguncia, Faustino Elmido and Ignacio Gagua in the order named. I know positively that we were in conversation as we went up, for I turned my face to them. Once in the house, I approached my aunt, Adriana Aganon, who was then sleeping, took hold of her left arm with my right hand and struck her with my bolo on the right nipple. She was awakened by the blow and because she shouted, saying 'Ay!' I covered up her mouth with my hand until she died.

"Irineo Maguncia boloed my uncle, Manuel Mico, until the latter died. Faustino Elmido also boloed the little girl by the name of Juanita Ovina. The old man, Ignacio Gagua also boloed the little boy by the name of Domingo Ovina.

"That soon after the death of my uncle, Manuel Mico, and my aunt, Adriana Aganon, and the two children, I approached the trunk, cut it with my bolo and, after breaking the lid, forced it open. I then took the money that it contained in the amount of P100 in denominations of one 20-peso and eight 10-peso bills. Thereupon, I told my companions that we could then leave the place as I had already with me the money which was our objective. My companions then came down, while I remained upstairs as I first set the roof of the house, just above the ladder, on fire. Then as I came down I again set the shed (patag-guab) on fire. The house being then in flames, we left for our respective homes, giving them instructions to meet together the following morning at the town of Umingan where I would give each his share.

"That on the morning of the 28th of August of this same year, we met together in the poblacion of Umingan. Then and there I handed them their shares in the following amounts:

1.

Irineo Magoncia

.....

P15.00

2.

Faustino Elmido

.....

15.00

3.

Ignacio Gagua

.....

16.00

4.

I, the affiant

.....

54.00

out of which nothing was left, as I spent it in taking care of my mother and my nephews and nieces.

"The statements hereinabove given are the whole truth. They were given freely without the use of force, intimidation and inducement. And in witness whereof, I hereunto place my right thumb mark between my name and surname this 19th day of September, 1931, in this municipality of Tayug, for I do not know how to write."

The statement of Irineo Maguncia was not signed by him, but it is proved that when the statement was drawn up and read over to him that night at Tayug, he clearly stated "That is true, sir". In substance the statement thus approved by Maguncia follows in the main the lines of the declarations made by the three whose confessions have been quoted, Elmido admitting that he slew the old man Manuel Mico with his bolo, while the other accused performed the parts admitted by them in their several statements. In this statement Irineo asserted that Mones opened the chest and took therefrom P100 in money, and that Mones was the one who set the house on fire.

At the hearing in this case all of the accused stated that they were maltreated by Sergeant Villasista during the examination of the accused in Tayug, and all united in asserting that Lieutenant Polotan was not present when said acts of maltreatment were committed. The obvious mendacity of the latter statement deprives their testimony on this point entirely of credit, for it is evident that Lieutenant Polotan was present during the examination of the witnesses during the whole night prior to the time their confessions were given, and we have no doubt that the statements suggesting abuse were built up upon the incident that Lieutenant Polotan had to intervene energetically with his arms to prevent Mones from assaulting Gagua.

The facts above stated supply the basis for the conviction of the four accused in this case; and the point is here made in their favor that the proof of what is called the corpus delicti is not sufficient. In this connection we are reminded of the rule generally prevailing in American jurisdictions that before evidence of a confession in a homicide case is admitted there should be some proof that the person supposed to have been slain is in fact dead. In dealing with this subject in his treatise on the law of evidence Professor Wigmore calls attention to the fact that judicial decisions in the United States are not harmonious, but he says that in its orthodox sense the expression corpus delicti signifies the fact of specific loss or injury sustained; and he illustrates what he considers to be the correct meaning of the term by saying that "in homicide the fact of death, whether or not feloniously caused, is the corpus delicti; in arson, the fact of burning, whether or not willful." (Wigmore on Evidence, sec. 2072.) This view has been accepted in this court. (People vs. Bantagan, 54 Phil., 834.) It is true that cases can be cited from various courts to the effect that proof of the corpus delicti should go beyond mere proof of specific injury or loss and

comprehend not only somebody's criminal liability as the source of the loss but even the identity of the accused as the author of the crime. But, as observed by Professor Wigmore, if interpreted in this sense, the expression *corpus delicti* would be synonymous with the whole charge, and the rule would require corroborative evidence as to all elements of the crime independently of the confession. In conformity with the view of this learned author, we consider the more restricted meaning to be the one properly applicable to the expression in this jurisdiction. It is therefore unnecessary to require independent proof of the criminal connection of the four accused with the four deaths and with the crime of arson, apart from their several confessions.

Upon the point whether any reasonable doubt can be raised as to the innocence of the accused in the light of those confessions and related circumstances, only one conclusion can, in the opinion of the majority of the court, be deduced, namely, that they are guilty. As against Faustino Elmido we have his admissions made to Santiago Origenes in the morning after the crime was committed, and the later confession reduced to writing in Tayug and subsequently ratified before the justice of the peace of Umingan. As against Ignacio Gagua we have the circumstance that, when first arrested and questioned by Lieutenant Polotan before the justice of the peace of Umingan in the afternoon of September 18, he admitted that he was present and saw the murders committed, and on the same night at Tayug he repeated this confession, with additional circumstances indicating his own guilt. The next morning he ratified this confession before the justice of the peace of Umingan, in connection with which he pointed out, as already stated, with sufficient details the place and manner in which he was paid P16 of the booty. As against Irineo Maguncia we have his admissions to Origenes, and the subsequent confession which was reduced to writing at Tayug; and although this confession was not confirmed the next morning by the signature or mark of this accused, the proof leaves no room for doubt that the confession, as reduced to writing, is true. Lastly, the guilt of Esteban Mones is shown by his confession in writing and by the fact that he subsequently ratified it with his mark. In addition to this, we have the circumstance of his physical assault on Gagua, based precisely on the fact, not that Gagua was speaking falsely as to the intervention of Mones in the crime, but because Gagua at first had refused to admit his own guilt.

We conclude that the confessions of all four of the accused were voluntarily made and the circumstance that they may have been subjected to questioning by Lieutenant Polotan with respect to their participation in the crime does not render these confessions incompetent. In weighing the truthfulness of these confessions, we should remember that the inference of guilt drawn against the four is corroborated by the testimony of Santiago Origenes, a witness who had no motive to reveal the guilt of the four accused other than a laudable desire to bring the guilty to justice. Indeed, he was indirectly connected with two of the accused by ties of kinship,—a circumstance which tended rather to seal his lips than to cause him to reveal the truth.

With respect to the qualification of this offense, or offenses, we note that the four accused were prosecuted upon an information charging robbery *en cuadrilla*, with quadruple homicide and arson. Fundamentally this is a prosecution for the complex crime of robbery with homicide, and of this offense the accused were convicted. Technically this is a higher offense than simple robbery or simple homicide, and even than murder. Moreover, the crime of robbery with homicide remains fundamentally the same regardless of the number of persons killed in connection with the robbery. There is only one offense. (*People vs. Manuel*, 44 Phil., 333.) But, in such a case, where the accusation of robbery fails, but multiple homicide or murder is proved, the accused must be sentenced for the several separate offenses of homicide or murder (*U. S. vs. Lahoy-lahoy and Madanlog*, 38 Phil., 330); and in this case, if the proof should be held insufficient as to the robbery, the result would be, under the Revised Penal Code, that each of the accused would be sentenced for the four murders committed by them. In view of this fact we are constrained to sustain the conviction for robbery with homicide, upon the concurrent confessions of each of the four accused to the effect that robbery was the purpose of the crime and that P100 in money were taken from the trunk of Manuel Mico. As to the moral basis of this fact we entertain no doubt whatever, although there

is no independent evidence, apart from the confessions that robbery was committed. In thus sustaining the trial court in its finding of robbery we do not wish to be understood as declaring that this appreciation could prevail if the prosecution consisted of a charge of robbery only, or if the conclusion reached were in fact unfavorable to the accused.

In connection with the crime is to be estimated the aggravating circumstance that the offense was committed in the dwelling house of the injured parties, nocturnity being absorbed in the alevosia which is constitutive of murder. The same may perhaps be said of the aggravating circumstance of abuse of superior strength, as regards the offenses committed upon the person of the two children. As against the aggravating circumstance we allow the mitigating circumstance of lack of instruction. But this point is immaterial in this case as the ultimate penalty could not be imposed in view of the lack of unanimity on the part of the court.

To the penalty of reclusion perpetua, imposed on each of the accused by the trial court, must be added three months and eleven days for the crime of arson, under No. 1 of article 322 of the Revised Penal Code, there being no allegations in the information with respect to the arson which would justify the imposition of a more severe penalty. Also, the dispositive part of the appealed decision must be amended so as to require that the indemnity imposed on the accused shall be paid to the heirs of the four victims instead of to "each" of the heirs of said victims.

It being understood, therefore, that the judgment is modified to the extent above stated, said judgment is affirmed. So ordered, with costs against the appellants.

Avanceña, C. J., Ostrand, Villa-Real, Hull, Vickers, and Imperial, JJ., concur.

CONCURRING IN PART, AND DISSENTING IN PART

ABAD SANTOS, J.:

In *United States vs. De Leon and De Leon* (27 Phil., 506, 511), this court, in my opinion, wisely observed: "Courts are slow to accept extrajudicial confessions, when they are subsequently disputed, unless they are corroborated by other testimony. Generally the question of the admissibility of extrajudicial confessions is necessarily addressed, in the first instance, to the judge, and since such discretion must be controlled by all the attendant circumstances, the courts have wisely foreborne to mark with absolute precision any rules limiting the admission or exclusion of such testimony. Their admissibility must depend largely in each case upon the facts and circumstances surrounding the same. (*Hopt vs. Utah*, 110 U. S., 574; *Bram vs. U. S.*, 168 U. S., 532; *Wilson vs. U. S.*, 162 U. S., 613.)" Again, in *United States vs. Agatea* (40 Phil., 596, 601), this court said: "Another rule of evidence is, that a mere naked confession uncorroborated by any circumstance inspiring belief in the truth of the confession is not sufficient to warrant the conviction of the accused for the crime of which he is charged."

Considering the circumstances of the present case, I entertain serious doubt as to the guilt of the defendant Ignacio Gagua. Unlike the case of the other accused, whose confessions have been corroborated by circumstances inspiring belief in the truth thereof, Gagua is being convicted solely on his naked confession. I believe he is entitled to an acquittal.

DISSENTING

BUTTE, J.:

The accused are illiterate, "poor and ignorant" men. They are "taos"—peaceful, typical "little men", about whom we hear so much talk.

I am convinced that they are innocent and that their alleged confessions are spurious and false on their face.

Moreover, their conviction is illegal because it flies in the face of the principles relating to confessions laid down repeatedly in the decisions of this court. (U. S. vs. De la Cruz, 2 Phil., 148; U. S. vs. De Leon and De Leon, 27 Phil., 506; People vs. Bantagan, 54 Phil., 834.)

Villamor, J., I concur.

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