

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICENTE SOTTO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 3774. November 20, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

At half past 10 on the night of August 1, 1906, Aquilina Vasquez, a girl less than 18 years of age, left the house of her mother in Cebu without the latter's knowledge or consent and went to the house of Luis Crisologo, where she passed the night. She took with her the defendant Pio Datan. Crisologo compelled them to leave the house on the next day and they went to a house in Sambag in the same city. The mother, searching for her daughter, did not discover her whereabouts until the 3d of August. She then made a complaint to the provincial fiscal, who commenced an investigation. On the 4th of August Pio Datan was taken from the house in Sambag by a messenger of the fiscal and carried to the latter's office. It is claimed by the defendants that on that same day Aquilina Vasquez and Pio Datan were married in this house. Such proceedings were had by the fiscal that on the 10th day of August, 1906, the complaint in this case was filed in the Court of First Instance of the Province of Cebu against Vicente Sotto and Pio Datan, charging them with the crime of rapto.

Judgment was entered in the court below convicting the defendants and sentencing the defendant Sotto to four years and two months of prisidn correctional, and Pio Datan to four months of arresto mwyor, and to pay to Genoveva Daclison, the mother of Aquilina Vasquez, P1,000. From this judgment the defendants have appealed.

Some of the facts in the case are admitted by the defendants. Among these are the following: Vicente Sotto and Aquilina Vasquez, prior to the 1st of August, were friends. Sotto said that he was accustomed to meet her occasionally in the clubs, and, moreover, was a friend of the family. Pio Datan was Sotto's washerman. Sotto, on the afternoon of the 1st of August, made an arrangement with Crisologo for the renting of his house, the occupation to commence that night. On the night in question Sotto met Aquilina Vasquez and Pio Datan after they had left her mother's house at a place previously agreed upon between them, took the two to the house of Crisologo, entered the house, and with Aquilina Vasquez went into the room, where she passed the night. The two persons who claimed to have been witnesses to the marriage alleged to have taken place on the 4th both worked for Sotto in the office of his newspaper "Ang Suga." Without any previous arrangement with them, the priest who is said to have performed this ceremony went to the office of the newspaper for them on the morning of the 4th of August. Sotto was in the house of Aquilina Vasquez on the 5th day of August. Among the facts alleged by the Government and not denied by the defendants are the following: Juan Villagonzalo, one of the witnesses to the alleged marriage, and employed by Sotto in his newspaper office, on the 6th day of August brought to the office of the provincial fiscal the card of Vicente Sotto, on which the latter asked if the fiscal had not yet finished with this matter. The assistant fiscal then told Juan Villagonzalo that it had not been finished and that he was about to ask the judge of the Court of First Instance for an order compelling Aquilina Vasquez and Pio Datan to appear in answer to the citation theretofore issued for them. Villagonzalo then said that there was no necessity for that, and after a short time he returned, bringing with him Pio Datan and Aquilina Vasquez. When the messenger of the

fiscal went to bring Pio Datan on the 4th of August, the latter said to him that he could not go because he was waiting for Vicente Sotto.

The foregoing are facts either admitted by the defendants or not denied by them, but there are in the case many other questions of fact about which there was a sharp conflict in the evidence. After considering such evidence we think that the following facts are established: On the 29th of July Sotto wrote a letter to Aquilina Vasquez protesting his love for her and urging her to leave her house and go with him. This letter was sent by a messenger and received by Aquilina either on the 30th or the 31st day of July. Without considering the testimony of Enero Ocaba, that of Juan Abellana establishes the fact that Sotto, instead of meeting Aquilina Vasquez where he says he did on the night in question, waited for her in a carriage in front of her house. He told Orisologo when he arranged for the use of his house that he wished it for a forestry ranger who was just arriving from Bohol. The evidence also satisfies us that instead of leaving Crisologo's house at once on the night of the 1st of August, as he and his witnesses say he did, he remained there for some considerable time and did not leave until the middle of the night. All of the witnesses agree that on that night Pio Datan slept in the sola and Aquilina Vasquez in another room. After Aquilina Vasquez, with Pio Datan, had left the house of Crisologo and gone to the house in Sambag, Sotto brought there various housekeeping effects.

While she was in this house Sotto visited her day and night. On the 5th he told the mother of Aquilina that now that the honor of her daughter had been lost, she, the mother, should overlook it and not create a public scandal, and he advised her to withdraw the prosecution which she had commenced. He made the same statement at the same time and place to Miguel Abella. Sotto went to the office of the prosecuting attorney on the 4th and took Pio Datan therefrom at about 11 o'clock.

The defendants claim that a legal marriage was celebrated on the 4th of August between Aquilina Vasquez and Pio Datan and that the effect of this was to pardon both Sotto and Pio Datan. We are satisfied from the evidence in this case that no such marriage ever took place. Pio Datan was taken from the house in Sambag on the morning of the 4th by a messenger from the prosecuting attorney's office. One of the witnesses who accompanied this messenger testified that after leaving the house with Pio Datan they passed the cathedral and the clock there indicated that it was 25 minutes past 8. The assistant prosecuting attorney testified that they arrived at his office before 9 o'clock. The witnesses Clemencia, Genoveva, Deogracias, and Teofista testified that they were at the house in Sambag from about 8 in the morning till nearly 12. Some of the witnesses testified that they saw a priest there, but they all testified that nobody entered the house. The witnesses for the defendants, in attempting to fix the hour when the alleged marriage was celebrated, varied a great deal in their testimony. Aquilina was positive that it was between 10 and 11 o'clock. The priest was utterly unable to fix the time and begged the court not to allow the prosecuting attorney to ask him any more questions in regard to that point. One of the alleged witnesses, Juan Villagonzalo, testified that he was accustomed to leave his house before 8 o'clock and that by hurrying he could get to the office of "Ang Suga" in twelve minutes, but if he walked slowly it would take about half an hour; that he thought that morning it took him about fifteen minutes and that he was there when the priest arrived. All of the witnesses for the defendants agree that when the priest, with the two witnesses, Pilomeno Roble and Juan Villagonzalo, went to the house the first time they could not enter; that Roble thereupon took the party to another house, left them there, and himself went in search of a policeman; that he found a policeman and brought him to the house, and that he then went for his companions and brought them there.

The witnesses for the Government testified that the policeman, a priest, Roble, and another person were at the house between 11 and 12. Whether or not the priest actually went into the house, as testified to by the defendants' witnesses, is, in our opinion, entirely immaterial, for, if he did enter, he did not find Pio Datan there, and any ceremony of marriage that was performed then was performed without the presence of this defendant.

It appears from the evidence that the priest in question was at the time 23 years of age and that he was the acting priest of the Independent Filipino Church in Cebu; that he was appointed to the office on the 1st day of August of that year, and that his appointment was made by the then priest and secretly.

On the 5th day of August Aquilina Vasquez told her mother in the house in Sambag, in the presence of Sotto, that she had not been married and that the whole thing was a farce. Sotto, himself, at the same place and on the same day, told Miguel Abella that Pio Datan and Aquilina Vasquez were not married and that the whole thing was a "cover."

Reviewing all the evidence in the case, we find that a day or two before the 1st day of August, 1906, the defendant Sotto urged Aquilina Vasquez to leave her mother's house and go with him for an immoral purpose; that she did leave her house at that time with him, went to the house of Crisologo, where they passed a portion of the night in the same room, and that he visited her often during the following days and nights. No marriage was ever celebrated between Aquilina Vasquez and Pio Datan. It is very probable that, for the purpose of relieving himself from responsibility for his acts, Sotto attempted to have such a marriage celebrated, but his purpose was never accomplished.

The part which Pio Datan played in this affair was a trivial one. He was a mere servant of Sotto. No one can believe from the evidence that any relations of the kind claimed by the defendants ever existed between him and Aquilina Vasquez. He was a person placed at her orders by Vicente Sotto and their relations were those of a mistress and servant. She herself testified: "When I left the house, I took Pio Datan with me." Notwithstanding the subordinate relation which he bore to the other defendant, his connection with the affair was such as to make him responsible as an accomplice. The principal defendant, the man who really committed the crime, is Vicente Sotto. The judgment of the court below is modified by imposing upon Pio Datan four months and twenty-one days of arresto mayor instead of four months and by striking out the indemnity of P1,000 in favor of Genoveva Daclisan, and in lieu thereof condemning the defendant Sotto to pay as dowry to Aquilina Vasquez P500, and to maintain the offspring of his relations with her if there be any. In all other respects the judgment of the court below is affirmed, with the costs of this instance against the defendants.

Whatever crimes may have been committed in connection with the certificate of marriage, which from the evidence in this case we hold to be false, can not be considered here, but must be left for action by the proper officials. So ordered.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

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