

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RUPERTO GOROSPE AND LORENZO GOROSPE, DEFENDANTS, LORENZO GOROSPE, APPELLANT.

G.R. No. 3980. December 20, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

These defendants were charged with the crime of murder in the words following:

"That the said Ruperto Gorospe and Lorenzo Gorospe, on or about the 29th day of November, 1906, in the pueblo of Cabugao, Province of Ilocos Sur, P. I, intentionally, illegally, and criminally, with treachery and known premeditation, took the life of one Joaquin Reyes."

These defendants were duly arrested, were brought before the court, duly arraigned, and each pleaded "not guilty."

The lower court, after hearing the evidence adduced during the trial of the cause, found each of the defendants guilty as "accessories to the crime of homicide upon the person of Joaquin lieyes, without any modifying circumstance," and in consequence sentenced each of the said defendants to be imprisoned for a period of two years four months and one day of prision correccional, with the accessory penalties provided for by law, to indemnify the heirs of the deceased in the sum of P1,000 and in case of insolvency to suiter subsidiary imprisonment, corresponding to the penalty imposed, which should not exceed one-third part of the principal penalty, and each to pay one-half the costs. From this sentence of the lower court the defendant Lorenzo Gorospe appealed.

An examination of the record brought to this court shows that the only evidence adduced during the trial of the cause in the lower court was evidence of alleged extrajudicial confessions made by the defendant. These confessions should not have been admitted in evidence without first showing that they had been made voluntarily and without coercion. (Sec. 4, Act No. (519; also cases of United States vs. Pascual, 2 Phil. Rep., 457; United States vs. De la Cruz, 5 Phil. Rep., 24.)

The Attorney-General in his brief filed in this case recommends that the judgment of the lower court be reversed. and that the defendant be discharged from the custody of the law, basing his recommendation upon the fact that it was not proved that these extrajudicial confessions had been made voluntarily and without coercion.

Upon an examination of the record brought to this court, we are of the opinion, and so hold, that the judgment of the lower court should be reversed and that the defendant should be discharged from the custody of the law, unless he is held on some other charge, with the costs of both instance de oficlo. So ordered.

Arellano, C. J., Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

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