

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. IMPIT GUMALING, DEFENDANT AND APPELLANT.

G.R. No. 40348. February 12, 1935

Ponente: HULL, J.

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HULL, J.:

Appellant was convicted in the Court of First Instance of Davao of the crime of homicide, having killed one Wee Sam on December 16, 1932. The appeal is virtually a question as to the credibility of the witnesses.

We have reviewed the evidence and find no reason to disturb the findings of the trial court.

The evidence shows that Wee Sam was killed by the appellant and one Macla. A sergeant of the Philippine Constabulary testified as to his investigation of the case and what Macla had said as to the connection of appellant with the homicide. His testimony is of no value as against the appellant. However, Macla himself took the stand and testified as to appellant's participation in the crime, and such testimony is admissible.

The reception of the inadmissible portion of the sergeant's testimony can be disregarded without affecting the result that naturally follows from the balance of the testimony. Its reception is therefore not a reversible error.

A sentence of fourteen years, eight months, and one day of reclusion temporal is therefore awarded with a minimum sentence under the provisions of Act No. 4103 of eight years of prision mayor. The indemnity is fixed at P1,000.

As thus modified, the sentence is affirmed. Costs against appellant. So ordered.

Avanceña, C.J., Street, Abad Santos, and Vickers, JJ., concur.

Judgment modified.

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