

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND
APPELLEE, VS. FRANCISCO BUADA ET AL., DEFENDANTS.
FRANCISCO BUADA, APPELLANT.**

G. R. No. 40553. August 17, 1934

Ponente: HULL, J.

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HULL, J.:

The accused was convicted in the Court of First Instance of Pangasinan of the crime of robbery committed on the night of the 10th day of May, 1931, by cutting through the wall of a dwelling and removing therefrom a trunk containing money and property of the value of P470.45. The rifled trunk was found the next day in the fields near the house from which it had been stolen.

The complaint was originally filed against appellant only. A witness who claimed to have seen him and others armed and rifling the trunk haying come forward, the fiscal filed a new complaint alleging robbery by an armed band. At the trial this witness was shown to be hostile, and his testimony being deemed improbable by the trial court, the same was entirely disregarded and the other defendants discharged. However, the accused was convicted, under evidence to be later discussed, as the author of the crime, not in a band and not armed.

The first contention of appellant is that this witness having been found by the trial court to be false, under the maxim of "Falsus in uno, falsus in omnibus", all the testimony of the Government must be disregarded, or to express it another way, that if one witness is false, all witnesses are false. To substantiate this contention a new maxim would have to be created, with a considerable variation in the Latin text.

There is no justification in human experience for such a doctrine and, needless to say, the appellant has cited no authority to sustain his present contention. While this court has at times applied the old Latin maxim above quoted, it does so only in rare cases and where the false testimony is so material and has such direct bearing on the case that it creates the impression that the witness is of a character that cannot be believed with any safety. We are constantly having this doctrine presented whenever ingenuity can develop the slightest inconsistency or when a witness is contradicted by a witness of the other party. Needless to say, in such cases the maxim has no application.

The day after the robbery outcry was made, the case was investigated by the authorities, but outside of the existence of the crime, no evidence was secured looking to the identity of the culprit although one witness testified she had seen the accused in the vicinity of the house on the night in question. But that standing alone was not sufficient to point out the accused as the author of the crime. About the month of November, the daughter of the offended party saw a necklace, one of the articles that had been stolen, in the possession of Marcelina Mendoza. Upon inquiry, Marcelina promptly said she had purchased it from appellant sometime in May, and upon the matter being reported to the Constabulary, she turned the necklace over to the Constabulary, and it was duly presented in court. Her testimony as to the acquisition of the necklace was corroborated by her husband, who also testified that appellant went to him and tried to secure the return of the necklace by repurchase, and upon his

declining he was urged not to tell the truth and threatened by the appellant in case he did; and that he was subsequently and before trial again threatened by the accused in person should he testify truthfully in this case.

It is vaguely contended by appellant that the sale of a stolen article is not possession, but a sale as owner is as much an act of possession as treasuring the article on the person of the accused. It is also contended that the possession of only one article is not proof of the larceny of the other articles. This is incorrect. Corpus Juris states the rule to be:

"Sale of Stolen Property.—The possession of a part of the stolen property warrants the inference that accused stole all of it." (36 C. J., 870 and cases cited.)

The defense also attempted to prove that the necklace Marcelina was wearing in November was sent to her through the mail from Honolulu. Marcelina, on the witness stand, stated that the rosary or necklace which she received from Honolulu was the one she was then wearing, and the rosary or necklace which she purchased from appellant was Exhibit F, then in the possession of the court.

In the ultimate analysis, the conviction of the appellant must turn on the testimony of Marcelina Mendoza and her husband, Jorge Mabana. The court, who saw these witnesses on the stand, was impressed by their truthfulness and candor. The experienced trial judge believed they were telling the truth. If they did, the accused is guilty beyond a reasonable doubt as he denies all knowledge of the article in question. (U. S. vs. Catimbang, 35 Phil., 367.)

We have examined the record with care and find no reason to set aside the conclusion of the trial court.

The judgment appealed from is therefore affirmed. Pursuant to the provisions of Act No. 4103, a minimum sentence of one year prision correccional is awarded. Costs against appellant. So ordered.

Avancena, C. J., Abad Santos, Vickers, and Diaz, JJ., concur.

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