

THE UNITED STATES, PLAINTIFF AND APPELLEE, O. ENRIQUE POSOC ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 4219. April 01, 1908*

Ponente: CARSON, J.

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Defendants were charged with the crime of asesinato (murder). Domingo Posoc, Melchor Posoc,. and Anacleto Bonillo were acquitted by the trial court, and each and all of the other accused were convicted of the crime with which they were charged. Enrique Posoc and Regino Posoc were sentenced to the penalty of cadena perpetua (life imprisonment), and the other three to twenty years' imprisonment.

It appears from the evidence that on the 8th day of June, 1907, one Delfin Villa, an unmarried man, 24 years of age, came to his death in the barrio of Tubigan in the municipality of Zarraga, Province of Iloilo, at the hands of Enrique Posoc, by himself or aided by his coaccused, and that the motive for the crime is to be found in the illicit relations which appear to have existed between the deceased and one Consolacion Panabe, the wife of Enrique Posoc.

The prosecution undertook to prove that the deceased returned to his house about dusk on that evening, and after some conversation with a woman who was visiting there at that time, removed his outer clothing and went outdoors to enjoy the fresh air. That as he reached the ground by the outside staircase of the house, he was seized by the defendant Regino who held him by the wrist with one hand while he struck him with a bolo with the other. That the other seven defendants immediately rushed to the attack, and all of the party showered blows on their victim. That the wounded man escaped from his assailants and made his way to' the other side of the house where he leaned for a short time against a door leading into the storeroom situated underneath the living rooms. That he entered the door against which he had been leaning, which is located at the northeast corner of the house, and made his way to a point just inside of a door on the west side of the house, where he died from loss of blood and where his body was afterwards found. That his assailants pursuing him, threatened to break into the house and to burn it, but were dissuaded by the teniente of the barrio and others from so doing, and later dispersed. The prosecution made no attempt to prove a motive for the crime, but it is to be noted that the defendants are all closely related, Domingo Posoc being the father of Enrique; Iteginio, Esteban, and Melchor his brothers; Pederico and Hipolito his cousins; and Anacleto Bonillo, his brother in law; and there can be little doubt that if the story of the witnesses for the prosecution, most of whom are related to the deceased, is to be accepted as true, the motive is to be found in the illicit relations which it was shown at the trial existed between the deceased and the wife of Enrique Posoc.

Enrique Posoc, one of the accused, assumes all the responsibility for the killing. His story, corroborated by the testimony of other witnesses, is that he returned to his own home, which was near that of the deceased, on the evening of June 8, and learned from his aunt that his wife had gone over to the house of the deceased. He had suspected the existence of improper relations between his wife and the deceased for some time, and went to the latter's house in search of her. As he passed the house on the west side, he looked in through a door, leading into a

room underneath the living rooms, and discovered Villa and Oonsolacion in flagrante delicto, and immediately attacked Villa with a bolo which hung by his side and which he had been using during the day. Villa made some ineffectual resistance, but was overcome by repeated blows, and fell to the ground in the place where his body was subsequently discovered. During the fight between Enrique and Villa, the woman escaped, and for some reason, which is not explained by the evidence in the record, she disappeared and had never been seen from that time up to the date of the trial.

The conflict between the testimony of the prosecution and the defense is hopelessly irreconcilable. All and each of the eight accused were positively identified as having taken part in the attack by three witnesses, and some of them were further identified by additional witnesses who swore that they saw them in the party at the scene of the alleged assault either just before or immediately after the time it is said to have taken place; the witnesses for the defense on the other hand swore positively that seven of the defendants were far away from the scene of the crime when it was committed, and Enrique, while admitting his responsibility for the killing, gives an account of it entirely inconsistent with the whole theory of the prosecution.

After a careful review of all the testimony, we are not prepared to hold that the evidence of record establishes beyond a reasonable doubt that the deceased came to his death as described by the witnesses for the prosecution.

The doubt which arises in our minds as to the truth of the story told by the witnesses for the prosecution is based first and chiefly upon the fact that while the deceased appears to have bled to death at the place near the door on the west side of the house where the corpse was found, there were no traces of blood between that spot and the door at the northeast corner of the house where the prosecution insists that the wounded man must have entered on the night of the tragedy.

The justice of the peace held an inquiry and thoroughly examined the house and its surroundings on the morning after the occurrence. He testified that he found splashes of blood at the foot of the stairs outside the house where the prosecution alleges that the attack took place, and traces of blood leading from that point around the outside of the house to the door at the northeast corner. He also found blood stains upon the door itself and splashes of blood on the ground just inside the doorway which indicated that the wounded man had pushed the door partially open and stepped in through the opening left at one side as it did not hang evenly on its hinges. There were no traces of blood between this door and the point where the corpse was found, nor were there any traces of blood outside and beyond this door, or outside or at the door on the west side, near which the deceased bled to death. Twenty-one bolo cuts were found on the body of the deceased, nine of which were on the left arm and hand, most of the others upon the left side of his head and shoulders, and it is difficult to understand how it could have been possible for the wounded man to have crossed the length of the building to the point where he bled to death without leaving a trace of blood on the dry ground underneath the house, where it would certainly have continued until the following morning when the home was examined by the justice of the peace; and this more especially as his course around the outside of the house appears to have been easily followed by the trail of blood stains which were found there, despite the fact that during the night there had been a fall of rain which might well have washed them away. It is just possible that the deceased stopped at the door where the prosecution alleges he entered, and then continued around the outside of the house and entered at the door on the west side where the body was found, but this conjecture appears to be negatived by the fact that no blood stains were found on that side of the house, nor at or outside the door on the west side near which he bled to death; and in any event, the testimony of the prosecution, if it is to be believed, all tends to indicate that the wounded man must have crossed inside 'the lower part of the house from the door on the northeast corner to the place where his body was found, near the door on the west side.

On the other hand, accepting the story of Enrique Posoc, we are compelled to believe that the witnesses for the

prosecution entered into a conspiracy to destroy his whole family as well as himself and that some one splashed blood on the ground outside the house in order to prepare in animate and apparently conclusive evidence in corroboration of the false testimony of the conspirators. It is difficult to understand how the conspiracy could have been successfully concocted in the short time which elapsed between the killing, in whatever way it occurred, and the time when the witnesses first told their story to the justice of the peace on the following morning—a story which they repeated without substantial variation at the trial in the Court of First Instance. And yet it is our duty, if there is a reasonable doubt, to give the benefit of that doubt to the accused, and without a satisfactory explanation of the break in the trail of blood along the route which the prosecution insists was taken by the wounded man, we do not think that we would be justified in holding that the evidence of record sustains a finding, beyond a reasonable doubt, that the testimony of the witnesses for the prosecution contains a true story of the incident as it actually occurred.

There are still other apparent inconsistencies between the story of the killing as related by the witnesses for the prosecution and the undoubted facts as they appear of record, which tend to emphasize our doubt as to the guilt of the accused.

The witnesses for the prosecution who described the alleged assault, swore that all of the accused joined in the attack, and that each and all of them struck at the deceased with their bolos; and yet practically all the wounds were on the left arm and the left side of the head and shoulders of the deceased. The character and relative position of these wounds are entirely consistent with the statement of the defendant Enrique Posoc, that he and he alone was guilty of the assault; but it is extremely difficult to reconcile the uniform character and position of these wounds with the story of the witnesses for the prosecution that they were inflicted by eight different men, crowding around an unarmed man, all of them striking at him in different directions and at about the same time. It is also difficult to understand how the deceased managed to escape from his aggressors, if it be true as testified by the witnesses, that when he was first attacked he was held by the wrist by one of the attacking party, while the others showered blows upon him and struck him twenty-one times with their bolos, many of the wounds inflicted being fatal; and if it also be true, as testified by the witnesses for the prosecution, that the party pursued the wounded man around the house, and tried to break into it to find him, why did they not follow him through the partially opened door by which it is said he made his escape?

It may be that if we had all the facts before us these inconsistencies might easily be explained, but on the whole record, as we find it, we do not think we can say that the evidence sustains a finding of guilty as charged in the complaint beyond a reasonable doubt.

The judgment of conviction and sentence of the trial court are reversed with the costs of this instance de oficio as to all the defendants and the costs in first instance de oficio as to all except Enrique Posoc, and all the defendants are acquitted of the crime of asesinato with which they are charged, and will be set at liberty forthwith

The defendant Enrique Posoc having admitted that he slew Delfin Villa at the time and place charged in the complaint, but that he did so because he surprised the deceased and his wife in flagrante delicto, this court being unwilling to accept any of the testimony in contradiction of his exculpatory explanation, finds him guilty of the offense defined and penalized in article 423 of the Penal Code, and sentences him to the penalty of destierro (banishment) as therein prescribed, that is to say, he is hereby forbidden for a period of two years four months and one day to return to the municipality of Zarraga in the Province of Iloilo, or to go to any place within 25 kilometers of that municipality. This defendant will pay his proportionate share of the costs in the court below. So ordered.

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

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