

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. RAMON PULMONES, DEFENDANT AND APPELLANT.*G.R. No. 43210. August 02, 1935*

Ponente: VICKERS, J.

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Defendant appeals from the following decision of the Court of First Instance of Iloilo:

"En el Barrio Kulob, Municipio de Pototan, de esta Provincia de Iloilo, Islas Filipinas, Juan Magbanua tenia un terreno del que era encargado Felix Pareja, quien con su esposa Martina Pulmones y sus hijos tenia una casa en dicho terreno. A la muerte de Felix Pareja le sucedio como encargado del terreno el acusado Ramon Pulmones. En la manana del 27 de abril de 1934, Ramon Pulmones se fue a la casa ocupada por Martina Pulmones y por seis hijos de esta, para advertirla que levantaran de dicho sitio la citada casa; Martina Pulmones se excuso diciendo que no podia hacerlo porque no tenia medios para ello; a lo que, disgustado Ramon Pulmones, dejo la casa amenazando a sus moradores con la manifestacion de que aquella misma noche el haria que dicha casa se quitara de aquel sitio. En aquella ocasion eran moradores de la casa, Martina Pulmones, sus seis hijos, Dominga Pulmones, Rizalina Hofilefia, Teofilo Asesor y cuatro hijos de este. Entre cinco y cinco, y media de la tarde del 27 de abril de 1934, Rizalina Hofilefia sorprendio a Ramon Pulmones en los alrededores de la casa formando un haz de yerba-mora seca. A la media noche, entre el 27 y 28 del mismo mes y ano, los moradores de la casa oyeron un ruido sordo sobre el techo de cogon; abrieron la ventana y vieron frente a ella y mirando al techo al acusado Ramon Pulmones; en esto, un haz hecho de yerba-mora seca, pero ardiendo, se cay6 a los pies de Ramon Pulmones que lo recogio este y lo tiro al techo de cogon de la casa de Martina Pulmones. Martina Pulmones preguntandole por que prendi6 fuego a la casa, el acusado huyo del lugar y subio a su casa encerrandose en la misma. Los moradores de la casa de Martina Pulmones lo abandonaron porque el fuego consumio toda la casa, que era de materiales mixtos, dejando un solo harigue carbonizado. La casa quemada valia ochenta pesos, y los mobiliarios quemados eran como sigue: una mesa que valia veinticinco pesos y una cama que valia ocho pesos; un aparador que valia dieciocho pesos; seis sillas que valian a razon de un peso con cincuenta centavos cada silla; dos baules que costaban ocho pesos; un espejo tocador que valia seis pesos; tres docenas de platos que valian cuatro pesos con cincuenta centavos; cinco cavanos de palay a cuatro pesos con cincuenta centavos cada uno; ropas por valor de cuarenta pesos, y alhajas por valor de ochenta pesos. En total: P263. Con la cooperacion del Teniente del Barrio Hermogenes Poli, Martina Pulmones acudi6 al Jefe de Policia de Pototan, en la manana del 28 de abril de 1934, dia sabado, y el jefe le dijo que volviera el lunes siguiente con los testigos para la incoacion de la denuncia correspondiente contra Ramon Pulmones; pero por el hecho de que desde entonces los hijos de Martina Pulmones cayeron enfermo uno tras otro, dicha ofendida pudo volver a la oficina del Jefe de Policia de Pototan solo el mes de octubre, 1934, raz6n por la cual la denuncia en esta causa se inco6 contra Ramon Pulmones solo el 13 de octubre de 1934, despu6s de haberse tornado las declaraciones o affidavits de los testigos el 6 del mismo mes y ano.

"Estos son los hechos que el Juzgado encuentra concluyentemente probados en este juicio.

"El acusado interpuso la defensa de coartada, pretendiendo que cuando tuvo lugar el incendio de la casa de Martina Pulmones el estaba en la casa de su padre Mateo Pulmones que a su vez se hallaba en cama enfermo. Esta coartada, sin embargo, no esta sostenida por las pruebas del acusado.

"Por tanto el Juzgado cfeclara al acusado Ramon Pulmones culpable de Incendio; y le condena a sufrir la pena indeterminada de diecise"is anos y un dia de reclusi6n temporal, sin que esta pena baje de ocho anos y un dia de prison mayor (art. 321-1, C. P. R.); a indemnizar a Martina Pulmones en la suma de P263; con accesorias y costas."

The case for the prosecution rests upon the testimony of two witnesses, Martina Pulmones and Rosalina Hofileia. Martina Pulmones is the offended party. Her husband, Felix Pareja, died about a month prior to the burning of her house on April 27, 1934. He had been the overseer of the land of Pedro Magbanua, where the accused and the offended party were living at the time of the incident in question. The accused, Ramon Pulmones, was appointed the overseer of the land in place of Felix Pareja. Contrary to the finding of the lower court, the accused was chosen to take the place of Felix Pareja prior to the death of the offended party's husband.

The lower court found that the accused went to the house occupied by Martina Pulmones and her six children on the morning of April 27, 1934 to notify her to remove her house, and that when she replied that she could not do so for lack of means, the accused became angry and went away threatening the occupants of the house that he would cause it to be removed that night. When the defendant made this threat, there were present, in addition to Martina Pulmones and her six children, Dominga Pulmones, Rosalina Hofilena, and Teofilo Asesor and his four children.

Martina Pulmones and the accused are cousins. She testified that there was no ill-feeling between them prior to the morning of April 27th when the defendant, apparently without any reason, ordered her to move her house, and when she told him that she was unable to do so, warned her that he would cause it to be moved that night. Continuing, the offended party testified that the defendant prepared a torch that afternoon and set fire to the roof of her house about twelve o'clock that night. The testimony of the offended party is corroborated by that of Rosalina Hofilena. The lower court gave full credit to this testimony, but we find it difficult to do so. No reason was suggested by the prosecution as to why the accused should require the offended party on the date in question to move her house, or why he should become angry and threaten to cause it to be removed that night when she told him that she could not move it for lack of means. If the defendant had wished to require the offended party to move her house, he could have gone to the justice of the peace and filed a complaint against her. It was not necessary for him to set fire to it. To believe the story of the two witnesses for the prosecution, we must admit that the defendant was so unreasonable and inhuman as to set fire to the house in the dead of night and endanger the lives of the offended party and her six children and the other occupants of the house merely because the offended party had told him that she could not move her house. It will be observed that she did not flout his authority or claim the right to continue to live on the land where she had been living, but merely told him that she could not move her house because she did not have the means to do so. If it be conceded that the defendant made the demand for the removal of the house and was angered by the offended party's reply, and that he was ready to take the law into his own hands, it is unreasonable to suppose that he would have announced to the offended party and the other occupants of the house his intention of causing the house to be destroyed that night, or that he would have prepared a torch that afternoon in, plain sight of the offended party and Rosalina Hofilena.

It is true that it is not absolutely necessary, and it is frequently impossible, for the prosecution to prove the motive of the accused for the commission of the crime charged, nevertheless in a case like the present, the existence or nonexistence of a sufficient motive is a fact affecting the credibility of the witnesses.

There is another fact tending to show the improbability of the theory of the prosecution. The defendant lived very near the offended party, and on the night of the fire the wind was blowing in the direction of his house. The distance between the house of the defendant and that of the offended party was estimated by the different witnesses to be from five to eight brazas. The fact is the offended party frequently referred in her testimony to the

defendant's house as being contiguous to hers. To offset the inference that it is improbable that the defendant would under the circumstances take the risk of destroying his own house by setting fire to that of the offended party, it is urged, as stated by the two witnesses for the prosecution, that the defendant sent his wife and children to his father's house. The evidence shows, however, in our opinion, that the testimony of Martina Pulmones and Rosalina Hofilena to this effect is untrue. It clearly appears from the testimony of Mateo Pulmones, Bonifacio Pulmones and of the defendant that the defendant's wife and children were not in the house of the defendant's father, Mateo Pulmones, but in their own house when the fire occurred. In this connection it should be stated that Mateo Pulmones and Bonifacio Pulmones are uncles of the offended party.

We come now to the delay in the filing of the complaint. The evidence for the prosecution shows that the morning after the fire the offended party went to the lieutenant of the barrio and informed him that her house had been burned by Ramon Pulmones. According to the offended party they went directly to the office of the chief of police in Pototan; according to the lieutenant of the barrio they went to the scene of the fire before going to see the chief of police. The latter testified that the offended party told him that her house had been burned the night before by Ramon Pulmones, that she had witnesses; that he told her to return on Monday, it then being Saturday, and to bring her witnesses, but that she did not return until September.

The offended party appears to be a fairly intelligent woman, in fact judging from her testimony we think that she is above the average barrio woman in intelligence. If Rosalina Hofilena was in the house of the offended party on April 27th and heard the defendant make the threat that he is alleged to have made, and afterwards saw him preparing a torch, and later saw him throw a burning torch on the roof of the offended party's house, why did not Rosalina Hofilena accompany the offended party when the latter went to the house of the lieutenant of the barrio to complain that Ramon Pulmones had set fire to her house? If the testimony of the offended party and Rosalina Hofilena be true, why is it that Rosalina Hofilena did not appear when the lieutenant of the barrio went to the scene of the crime and more especially why is it that the offended party did not tell the lieutenant of the barrio or the chief of police that Rosalina Hofilena heard the defendant make the threat, saw him prepare the torch, and later set fire to the house? It was the contention of the defense that Rosalina Hofilena was not present in the house of the offended party when the fire occurred, but was attending a fiesta in a distant barrio. When the attorney for the accused attempted to cross-examine this witness as to her whereabouts on the night in question, the trial judge erroneously sustained the objection of the private prosecutor.

Teofilo Asesor, one of the occupants of the offended party's house, fell from the roof during the fire and died a week or two later. Dominga Pulmones, another of the occupants, who is supposed to have been present when the defendant made the threat, was not called as a witness.

The offended party explained her failure to return to the office of the chief of police for four or five months by saying that one after another of her children fell sick and she was so occupied with attending to them that she could not go back to the poblacion before September. The trial judge accepted this explanation, but it does not seem to us entirely satisfactory. According to the witnesses for the prosecution, one of the offended party's children was very sick on the night of the fire. Nevertheless she left her sick child the next morning and went to see the lieutenant of the barrio and then the chief of police in Pototan. In our opinion her failure to return to the office of the chief of police on Monday, as requested by him, or within a reasonable time, taken in connection with her failure to mention Rosalina Hofilena to the lieutenant of the barrio or the chief of police when she first went to see them on April 28th, throws doubt not only on the testimony of Rosalina Hofilena but also on that of the offended party.

Another fact tending to show that the two witnesses for the prosecution told more than the truth is that they testified that after the defendant had picked up the torch and thrown it on the roof he went home and shut himself

up in his house. It is incredible that these two women after seeing the defendant set fire to their house, in which ten children were sleeping at the time, should calmly watch him go home and shut himself up in his house. As they testified, when they discovered that the house was on fire, they cried for help and began to drag the children out of the burning house, and in the excitement did not know whether the defendant came back to the house of the offended party or not. Furthermore, the statement that the defendant went home and shut himself up in his house is in conflict with their testimony to the effect that they saw him on the roof of his house throwing water on it to keep it from taking fire.

Another instance showing the disposition of these two witnesses to overstate the truth is their testimony that they heard the defendant order his wife and children to spend the night in his father's house. If we are to believe these two women, the intention of the defendant to burn the house that night was manifest, and they were well aware of his intentions, because he took not the slightest pains to conceal them.

Apart from the aforementioned weaknesses in the testimony of the two witnesses for the prosecution, there is another fact that was overlooked or disregarded by the trial judge which may throw light on the origin of the fire that destroyed the offended party's house. Rosalina Hofileña executed an affidavit on October 6th, in which she stated that about two o'clock in the morning when she was going to cook some rice for the breakfast of Martina's sick child, she suddenly heard a noise, on the roof of the house. The fire on the roof may have been caused by sparks from the fire made in the kitchen for cooking the rice. If that is so, it may be fairly asked why the offended party falsely charged the defendant with having set fire to her house. The defendant may have stated the reason. He testified that he had reprimanded the offended party and her children for destroying some banana plants belonging to Juan Magbanua; that Martina Pulmones resented what he said and called him a fool. This incident, in addition to the fact that the defendant had displaced the husband of Martina Pulmones as overseer, may have given her a grudge against the defendant, and lead her to impute to him the burning of her house.

The defendant testified that on the night of the fire he was in the house of his father, who was sick, when he heard people crying that there was a fire; that his father's house was about 150 meters from the house of the offended party; that he left the house of his father and went to the scene of the fire accompanied by Bonifacio Pulmones and his brothers, who were soldiers in Manila at the time of the trial; that after seeing to his own family he returned to the house of the offended party and assisted in trying to put out the fire. His testimony was corroborated by that of his father, Mateo Pulmones, who is eighty years old, and by the testimony of his relative, Bonifacio Pulmones. The trial judge disposed of the appellant's defense by saying that it is not sustained by the evidence. No reason whatever was given for disbelieving the testimony of the defendant and his two witnesses. It is true that frequently the defense of alibi deserves little consideration, because it is easily fabricated and is shown by the evidence to be untrue, but the defense of alibi is not always false and without merit, and under the circumstances of this case the evidence tending to show that the defendant was in the house of his father when the fire in question started seems to us to deserve greater consideration than it apparently received from the trial judge.

For the foregoing reasons, we are constrained, after mature deliberation, to find that the guilt of the accused has not been proved beyond a reasonable doubt. The decision appealed from is therefore reversed, and the accused is acquitted, with the costs de oficio. So ordered.

Avanceña, C.J., Abad Santos, Hull, and Recto, JJ., concur.

Judgment reversed, defendant acquitted.

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