

**THE PEOPLE OP THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
FAUSTINO BUAN ET AL., DEFENDANTS. CONRADO BRUNO,
APPELLANT.***G. R. No. 45219. March 30, 1937*

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45219/>**CONCEPCION, J.:**

Faustino Buan, Faustino Palac and Conrado Bruno were charged with the crime of robbery with homicide.

Past midnight of January 23, 1936, while the doors of the store at No. 1235 Azcarraga Street, Manila, were closed and the inmates thereof were asleep, Faustino Buan, by standing on the shoulders of his coaccused Faustino Palac, succeeded in climbing to the media agua sheltering the door of the store and, by clambering over it, was able to reach the window and enter the house through the same. He went downstairs and found himself inside the store. Soon after, the two Chinese who were asleep therein woke up and, in the fight which ensued among the three, the accused Buan wounded one of said Chinese named Yap Kim Seng, escaping thereafter by running upstairs, going out of the window through which he had entered and jumping from the media agua to the sidewalk below. Yap King Seng died as a result of the wounds he had received from the accused Buan. On that same morning, some articles mentioned in the information and money, with a total value of P44.50, disappeared from the store.

All the above-stated facts were proven during the trial and the participation of the accused Faustino Buan and Faustino Palac in the crime was established by their respective confessions dated March 3 and 6, 1936, made in the presence of police inspector Fidel Zaldana. The three accused were sentenced by the lower court to the penalty of reclusion perpetua, to indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs of the trial.

All of them appealed from the judgment but Faustino Buan and Faustino Palac desisted from their appeal, leaving that of Conrado Bruno alone in force.

The appellant's two coaccused incriminated him in their respective confessions in such a way as to make it appear that he had consented to take part in the perpetration of the robbery, his participation in the commission of the crime consisting in his having stood guard at the corner of Aguilar and Azcarraga Streets while Buan was entering the store in the manner above-described. However, while the confessions of Buan and Palac are admissible against themselves as evidence of their guilt, they are not admissible against the appellant Conrado Bruno, first, because they lack the indispensable requisite of corroboration by other evidence. (U. S. vs. Balisaeon, 4 Phil., 545; U. S. vs. Ambrosio and Falsario, 17 Phil, 295; U. S. vs. Wayne Shoup, 35 Phil., 56; U. S. vs. Remigio, 37 Phil., 599; People vs. De Otero, 51 Phil., 201), and, second, because during the trial, those same accused who confessed their crime denied that their coaccused Bruno had knowledge of their intention to commit robbery when they were on their way to Yap Kim Seng's store.

By eliminating the confessions of Buan and Palac, only the appellant's statement made in the presence of inspector Zaldana on March 2, 1936, remains. Said, statement, however, shows no admission of conspiracy, much less of the appellant's direct participation in the commission of the crime which is the subject matter of the present

case. The pertinent part of the appellant's statement is as follows:

"One midnight, between 12 and 1 in the morning of a certain date in January which I no longer remember, while I was walking along Calle Azcarraga, going to the People's Panciteria at the corner of Misericordia and Azcarraga, I met Faustino Buan with a companion whose name I do not know but whom I can recognize if I will see. When Faustino saw me he asked me to go with him, so I did not go anymore to the Panciteria, and instead, I went with them. Faustino told me while we were walking that they will get into the Chinese store at the corner of Aguilar and Azcarraga to rob the place. When we arrived at the corner of Aguilar and Azcarraga, I saw the two of them whispering to each other, after which, Faustino got on the shoulder of his companion, climbed into the open window of the store facing Calle Aguilar and then entered the house. When Faustino was already up the house, his companion approached me and talked with me, telling me that he had seen me in Corregidor and that he and Faustino had been companions for a long time. After about five minutes had passed, I heard a noise inside the house, I saw Tino coming out of the window, thru which he entered, to the media agua and from there he jumped to Aguilar street * * * Afterwards, I went out alone, took a calesa and went to the house of Tino on Calle Alburquerque, but Tino and his companion were not yet there, so I had to wait for sometime before his companion who shouldered him arrived. After a while, Tino arrived in a calesa and he even asked me twenty centavos with which to pay his fare. When he arrived at the house where we were, he was complaining because he had sprained his right foot. I asked him right away why he stabbed the Chinaman and he told me that he stabbed him because he was trying to hold him. I asked him if he got some money and he told me that he did not get any. After that, I left the place and went home."

That is all. It is at once noticeable that the mere fact that Faustino Buan told the appellant that he and Palac intended to enter the Chinese store to rob does not conclusively prove that the three conspired together to commit robbery. Neither does the fact that the appellant later went to his neighbor Buan's house to ask him why he had wounded the Chinese and whether he had succeeded in obtaining some money.

The appellant, testifying as a witness, denied having voluntarily made his statement in the presence of inspector Zaldafta and stated that between 12 and 1 o'clock in the morning of January 24th, he saw Faustino Buan at the corner of Magdalena and Azcarraga Streets. Buan asked him where he was going and Bruno answered that he came from the bowling alley and was on his way to the panciteria

(People's Panciteria).

"Q.

What happened afterwards?

—

A.

I asked them where they came from; they said that they came from Rizal Avenue.

"Q.

After that, what happened?

—

A.

Faustino Buan left us.

"Q.

Who were those who remained?

—

A.

Faustino Buan's companion and I.

"Q.

Do you know where Faustino Buan went?

—

A.

It seemed to me that he went back to Azcarraga and Aguilar Streets.

"Q.

After Faustino Buan had left you and his companion at the corner of Magdalena and Azcarraga Streets, did you speak to his companion?

—

A.

Yes, sir.

"Q.

What did he tell you?

—

A.

I asked him what Faustino Buan intended to do.

"Q.

What did he answer you?

—

A.

He said that Buan was going to commit robbery.

"Q.

When Faustino Buan's companion told you that Buan was going to commit robbery, what did you do?

—

A.

I then told Faustino Buan's companion: 'so he intends to do something bad and thereupon we left. I went to the People's Panciteria and Faustino's companion went home.

"Q.

Before Faustino Buan left you both at said place, had you no conversation with him?

—

A.

No, sir.

"Q.

Did he not even tell you where he was going?

—

A.

No, sir." (T. s. n., pages 44, 45.)

There being no evidence to show beyond a reasonable doubt that the appellant had taken part in the commission of the crime in question, the judgment appealed from is reversed and the information definitely dismissed as to said accused Conrado Bruno, with the proportionate part of the costs de oficio. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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