

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MAXIMO VALDEZ, JUANITO SEBASTIAN AND QUINCIANO LATORRE
(ALIAS BASILIO), DEFENDANTS. MAXIMO VALDEZ AND QUINCIANO
LATORR...**

G. R. No. 45589. October 25, 1937

Ponente: DIAZ, J.

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DIAZ, J.:

Maxio Valdez, Juanito Sebastian, and Quinciano La torre were convicted of the crime of robbery with homicide after due trial. Maximo Valdez was sentenced to reclusidn perpetua, to indemnify the heirs of his victim named Cua Loc (alias Kibi) in the sum of P1,000 plus that of P506 representing the value of the articles and money of which Cua Loc had been robbed, and to pay one-third of the costs of the trial. Juanito Sebastian and Quinciano La torre, being minors, were ordered confined in the Philippine Training School for Boys at Welfareville until they become of age.

Maximo Valdez and Quinciano Latorre appealed from the judgment and order, respectively, of the lower court, alleging that the latter erred:

"I. In having disregarded the testimony of the witnesses for the defense.

"II. In having given much weight and credit, to their confessions, without taking into account the circumstances under which they had been made.

"III. In having found them guilty of the crime imputed to them."

The facts established by the prosecution and by the defense are not in accord except in that: Cua Loc (alias Kibi), a Chinese, died on February 15, 1936, in the munic ipality of Bautista, Province of Pangasinan, as a result of the various incised wounds he had received in different parts of the body, in the morning of February 13, 1936, in his dwelling and store situated on the ground floor of the house of the spouses Trafiquilino Alvear and Alejandra Aguilar, in the barrio of Villanueva, municipality of Bau tista, Pangasinan, on the occasion of the robbery of which he was the victim and in which he lost articles and money amounting to P506. Near the place where Cua Loc, a few minutes after he had been wounded, was found lying prone in a pool of blood on the floor, there was also found the bloodstained bob which, for purposes of identification, has been marked Exhibit B. In order to commit the robbery and the aggression on the deceased, the authors thereof had to enter through an opening in the wall of the store, which certainly was not the way intended for said purpose. Maximo Valdez was then 21 years, 2 months and 12 days of age and Quinciano Latorre had not yet completed 18 years.

The prosecution proved that Cua Loc was alone in his dwelling and store in the above stated barrio and municipality, from the time his nephew Venancio Ganda went to sleep upstairs, as usual, after 9 o'clock in the night of February 12, 1936; that between 2 and 3 o'clock in the morning of February 13th of said year, Tranquilino Alvear heard Cua Loe uttering groans, for which reason he awoke Venancio Ganda, Cua Loc's

nephew, to find out what was the matter with him; that Venancio, upon waking up and lighting a candle, saw from his place that Cua Loc was lying on his face on the floor; that he immediately went down to help him and was followed later by Tranquilino Alvear; that both saw that Cua Loc was wounded in different parts of his body; that the bloodstained bolo, Exhibit B, belonging to Maximo Valdez, was found very near to Cua Loc; that the barrio lieutenant went there immediately after he was informed of the incident; that Cua Loc, in answer to the questions asked him by said lieutenant to find out who had wounded him, answered that it was Maximo Valdez and other persons whom he could not recognize; that the money which Cua Loc had in his box, together with 17 package's of Piedmont cigarettes for sale in his store, all valued at P506, disappeared, and that the papers that were in the same box where Cua Loc kept his money, as Exhibits O to O4, P, Q, R and S, were found in disorder on top of said box.

The prosecution likewise proved that in the afternoon prior to the morning of the crime, while Cua Loc was counting his money before placing it in the box which he used to keep in the drawer of his bamboo table, the appellants and two other individuals not included in the case were looking at him; that before and after the closing of Cua Loc's store, at about 9 o'clock on the night of February 12, 1936, Maximo Valdez was seen conversing with others in a low voice near the store; that while Cua Loc was being taken to the municipal building of Bautista to be attended by physicians, he again solemnly affirmed before the justice of the peace of Bautista that the persons who assaulted and robbed him were Maximo Valdez and several others whom he could not recognize; that he made such affirmation, aware of the seriousness of his wounds and of his condition, because, aside from being very weak, he had been informed of the physician's opinion that he might die any minute; that Maximo Valdez, who lived very near Cua Loc's dwelling and store, was not found in his house in the morning of the crime but in that of his sister, which is rather far, as it is necessary to cross a brook in order to go there; that when Maximo Valdez was arrested early in the morning of February 13, 1936, he was wearing a bloodstained sweater.

It was also proven by the prosecution that shortly after and on the same date Maximo Valdez was arrested, that is, on February 13, 1936, he made the admissions contained in Exhibit X, some of which are: that he really committed the crime with which he was charged; that he used the bolo, Exhibit B, for said purpose; that in order to introduce himself into Cua Loc's dwelling and store, he had to enter through an opening in the wall thereof; and that he put his thumbmark upon said document Exhibit X in the presence of the justice of the peace, his brother Sergio, the accused Juanito Sebastian and Sergeant Bides of the Constabulary, in the house of said justice of the peace.

It was finally proven by the prosecution that if Quinciano Latorre was not included in the information until long after the filing of that of February 13, 1936, that is, on the 27th of said month, it was because Juanito Sebastian, the accused who did not appeal from his sentence, implicated him only a few days before; and that said appellant Quinciano Latorre, on his part, made the admissions contained in Exhibits AA and II, which are certainly favorable instead of prejudicial to him, because it is stated therein that he followed Maximo Valdez and his companions when the latter committed the crime for the reason that he was threatened with death.

Maximo Valdez, by his testimony, by that of his mother Eusebia Mendecar, and by that of his sister Rosalina Valdez, proved that he was absolutely ignorant of the crime imputed to him; that in the night of the crime, as in preceding nights, he slept in his sister's house because her husband was absent; that he did not leave said house during the whole night; that the sweater worn by him when he was arrested had no bloodstains; that if he signed Exhibit X, claimed to be his spontaneous and free confession, it was because he had been maltreated by Lieutenant Nicanor Velarde and Sergeant Jose. Bides of the Constabulary; that Sergeant Bides caused him to put his thumb mark on the document in question, by taking hold of his hand for that purpose; that the contents of said document are not true and that if he ratified them in the presence of the justice of the peace, Jacobo Manaois, it

was because Sergeant Bides had threatened him shortly 'before; that he knows how to write, but upon being required to sign Exhibit X, he stated that he did not know how to write because he did not intend to ratify said document. He attempted to prove that not only did he not enter Cua Loc's store on February 12, 1936, but that he was not even in the vicinity thereof, and that the bolo Exhibit B is not his.

The evidence presented by the prosecution with respect to Maximo Valdez is so abundant and convincing that the alibi of said appellant cannot be taken into consideration. The prosecution established the above-stated facts by means of the testimonies of Venancio Ganda, Alexandra Aguilar, Tranquilino Alvear, Julian Velasco, Sixto Ferrer, Pablo Castillo, Hilario Cacatian, Eulalio Valdez, Justice of the Peace Jacobo Manaois, Policemen Timoteo Salabatino and Cesario Caragan, Sergeant Bides and Lieutenant Nicanor Velarde.

That the bolo Exhibit B belonged to Maximo Valdez and that it was the weapon, or one of the weapons, used in the aggression upon Cua Loc, are shown by the fact that it was Maximo Valdez himself who, sometime before, requested Julian Velasco, one of the witnesses, to put its bamboo handle; that he was seen by Venancio Ganda and Tranquilino Alvear carrying the bolo on several occasions; that he himself admitted that it was his, and that the bolo was bloodstained when it was found very near the place where Cua Loc lay. Furthermore, after the deceased Cua Loc had been uttering groans, appellant Valdez was seen crawling out through an opening which appeared for the first time in one of the walls of Cua Loc's store.

The alleged maltreatment to which Maximo Valdez was subjected, according to him and his witnesses, seems to be imaginary. At least, there is no evidence to corroborate the three of them. Their testimony may be considered biased. Notwithstanding the testimony of the mother of Maximo Valdez that she had to call Dr. Pio Sison to examine his son after seeing him maltreated by Lieutenant Velarde, Sergeant Bides and others, said physician was not called to testify in the case and there was no desire to call him to the witness stand. On the other hand, according to said mother of Valdez, the maltreatment took place on the day following February 13, 1936. If this is true, then it may be said that there was no reason to maltreat him because Exhibit X, containing his admissions and confessions, had been made by him on the same day of his arrest, that is, on February 13, 1936.

Quinciano Latorre's defense consisted in another alibi. However, there is no necessity of determining whether or not said defense is good and deserving of credit because the record does not contain sufficient data to link said appellant with the crime in question. The only evidence presented by the prosecution against him, which may be considered competent, consists in the statements or admissions attributed to him in the documents Exhibits AA and II, and in the testimony of Venancio Ganda, who stated that he had seen Quinciano Latorre with Maximo Valdez at about 9 o'clock on the night of February 12, 1936. Such evidence, however, does not prove that he is guilty. On the contrary it shows that he is not guilty, because if he followed Valdez and the latter's companions on the night or occasion in question, it was for fear, having been threatened with death.

This court is fully convinced that the appellant Maximo Valdez is really guilty of the crime of robbery with homicide imputed to him. This court finds it proven that the aggravating circumstances of dwelling and scaling were present in the commission of the said crime, because the store where it was committed is a dwelling, the deceased Cua Loc having lived therein, and because there is scaling when entrance is effected through an opening not intended for said purpose, as said appellant and his companions did when they went to commit the crime in question. The two foregoing circumstances were certainly not inherent in the crime committed, because, the crime being robbery with violence or intimidation against persons, the authors thereof could have committed it without the necessity of violating or scaling the domicile of their victim. In view of these circumstances, which are not offset by any mitigating circumstance, it would seem clear that the penalty that should be imposed upon him is death, pursuant to the provisions of articles 294, sub section 1, and 63, rule 1, of the Revised Penal Code, but in the voting for the imposition of said penalty, there was no unanimity among the members, of the court. Under

these circumstances, the court should act in conformity with the provisions of section 2 of Commonwealth Act No. 3, amending section 133 of the Revised Administrative Code, that is, by imposing upon the appellant the penalty next lower to death, which is reclusion perpetua the same penalty imposed upon him by the lower court

Wherefore, the judgment appealed from is affirmed in so far as it imposes the penalty of reclusion perpetua upon the appellant Maximo Valdez and orders him to indemnify the heirs of Cua Loc in the sum of P1,506 and to pay one-third of the costs of the trial; and it is reversed in so far as it finds the appellant Quinciano Latorre guilty of the crime with which he was charged and orders him, being below 18 years of age, confined in the Philippine Training School for Boys, at Welfareville, until he reaches his majority, said appellant Quinciano Latorre being as he is hereby acquitted of said crime, for the reason that his guilt has not been established.

Let one-half of the costs of the appeal be assessed against Maximo Valdez and the other half de officio. So ordered.

Avancena, C. J., VillaReal, Abad Santos, Imperial, Laurel, and Concepcion, JJ., concur.

Judgment affirmed as to Maximo Valdez and reversed as to Quinciano Latorre.

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