

THE UNITED STATES, PLAINTIFF, VS. EUSEBIO BURIAS ET AL., DEFENDANTS.

G.R. No. 4714. March 09, 1909

Ponente: TORRES, J.

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TORRES, J.:

Between 6 and 7 o'clock on the evening of Tuesday, the 28th of January, 1908, several pupils were gathered at the house of Miss Anna E. Hahn, situated in Calle D. Silang, in the town of Batangas, capital of the province of the same name. The said lady, as a teacher of the provincial high school, was teaching them to recite some selected pieces which they were preparing for a performance that was to take place at the school on Friday of that week.

Miss Hahn was about 50 years of age, and had been engaged in teaching in these Islands since 1901; she lived alone, in a house with a nipa roof, erected on the same lot as the provincial high school building, and located within a short distance of the same. She was reputed among the persons who were acquainted with her as being possessed of considerable means. In the said house in which she resided, and which consisted of several rooms, was also located the school wherein she taught domestic science.

On the following morning, Wednesday, the 29th, Miss Hahn did not attend school at the usual hour and some of her pupils went to her house in search of her. They did not enter the house, but called to her from the outside. They immediately returned somewhat alarmed, and informed the principal teacher, Mr. Small, that the said lady had not responded to their calls. At this the said principal, accompanied by another teacher, Mr. Gregg, at once went to the above-mentioned house, where they found Miss Hahn lying dead in her bedroom, the body stretched partly on the floor and partly on a canvas bed. The face was covered with blood and they found blood stains on the partition wall alongside. The deceased was dressed, her shoes were on her feet, and her clothes slightly disarranged but in almost normal condition. The bed did not seem to have been occupied by its owner. There was a hand lamp with a broken chimney on the table of the bedroom, and on the table of the sala (reception or sitting room) there lay an open book, face downward. There was no lamp on this table but near by hung the frame of a hanging lamp. In an open trunk there were found some clothes belonging to the deceased, a gold watch and a ten-peso note. It should be noted that the entrance door of the house connected directly with the sala.

The municipal physician, Gregorio Limjoco, and the Army surgeon, Frederick Jenkins, visited the said house on the same date, the 29th, and examined the body of the deceased. They found seventeen wounds upon it, some of which were mortal. Fifteen of the wounds were upon the head; the skull had been fractured by blows on the forehead, on the left side, and on the back of the head. A wound was discovered on the neck and another on the right side below the ribs, both apparently inflicted with the edge of a cutting and stabbing instrument. As these wounds had not bled, it would appear that they were inflicted after the victim was dead. The injuries on the head had been produced by an instrument similar to a club, and from the appearance of the parallel edges of the wounds, it is inferred that the instrument used was similar to a large file or some grooved instrument. It should further be noted that to the south of the house of the deceased there was a cornfield, cultivated by Lucio Aldea, and separated from the house by a fence. On the morning of Thursday, the 30th of January, two policemen

engaged in investigating clues found in this field, at a distance of about 15 feet from this fence, a small new trunk, containing clothing and some letters addressed to the deceased. The trunk was open and upon the cover there were some blood stains in parallel lines similar to those which might be produced by a grooved or channelled bar sliding across the surface. Various articles for ladies' use that apparently had been taken from the trunk were strewn upon the ground. An iron bar about 14 inches long and five-eighths of an inch thick was also found on March 14, near the fence of the said cornfield at a distance of about 10 or 12 feet, at a point where the fence was apparently broken and near the spot where the trunk was found. At one end of this bar was wound a spiral thread and a piece of cloth was wrapped around the other, apparently to form a handle.

From the whole of the evidence adduced in the case it would appear that the events which occurred in the house of Miss Hahn took place in the following manner: After 8 o'clock of the evening of Tuesday, the 28th of January, Macario Balangui, a cook in the service of the principal teacher, Mr. Small, left the latter's house after supper to return home, although with the intention of calling while on his way on Pablo Berba, his friend and patron; but on reaching the junction of Calles Aguinaldo and D. Silang, he met Eusebio Burias, who invited him to accompany him to the house of Miss Hahn, whom he was going to ask to lend him some money. Balangui acceded to this request in order to please Burias, and on asking the latter what it was that he carried concealed on his back beneath his shirt, was told that it was a stick. On arriving in front of the above-mentioned house Burias told Balangui to wait for him, and then went toward the south and the fence that separated the cornfield from Miss Hahn's yard. When Burias arrived there he called out to some one and a few minutes later a man appeared who, on being asked who he was replied that he was Lucio Aldea, the owner of the said cornfield on the south of Miss Hahn's house. After a short conversation Eusebio Burias and Lucio Aldea said that they would enter the teacher's house, Burias telling Balangui to stand in front thereof and warning him not to tell anybody that they were inside. The door of the house stood open and when they had passed through, Eusebio entering first, followed by Lucio, Balangui took up a position to the north in the dark. From this point he heard Eusebio's voice asking Miss Hahn in English to lend him some money, and the latter's voice refusing. Immediately afterwards he heard a sound as of a human body falling to the floor. Believing that it was Miss Hahn's body he ran toward the street, and then he heard a cry of "no-o, Sebio." He there upon sat down, but as he could not keep still, he again approached the house to a distance of about 3 brazas (6 yards) from the steps to see what had been done. At this moment he heard the words "Hurry up or people will catch us," and immediately afterwards Eusebio and Lucio came out of the house carrying a trunk, on the top of which was a stick; this they took to the south side of the house. After seeing this Balangui went to Nicanor Berba's store, which was still open. In a short time he saw Eusebio hurrying from the scene of the crime. Balangui went to meet him and asked whether he had obtained the money from the teacher, Eusebio replied in the negative, and on being asked why, he answered that they had killed her. When questioned as to why they had killed her Eusebio replied: "Because she knew me, and she might have given information against me." Balangui then went to Pablo Berba's house, where he sat down upon a bench. Shortly afterwards Eusebio Burias appeared, and at the latter's invitation Balangui accompanied him to the circus. On their way, at Burias' request Balangui bought a piece of cake (un pionono) for 2 cehtavos, which was the only money he had. Eusebio ate the cake, and on reaching the circus they separated, and he did not see Burias again until he was captured.

By virtue of the foregoing, on March 26, 1908, an information was filed by the provincial fiscal in the Court of First Instance of Batangas, charging Eusebio Burias, Lucio Aldea, and Macario Balangui with the crime of robbery with homicide, and the corresponding proceedings having been instituted, the judge on the 31st of the said month rendered judgment sentencing Eusebio Burias and Lucio Aldea to be hanged by the neck until dead at the place fixed by law, and Macario Balangui to the penalty of fourteen years, eight months, and one day of cadena temporal, with the accessories, and all of them, jointly and severally, to indemnify the heirs of the

deceased, Miss Anna E. Hahn, in the sum of P2,000 and to pay the costs in equal parts. The accused Burias and Aldea expressed their desire to appeal, but the lower court informed them that the judgment would be submitted for review on account of the death penalty imposed upon them. Macario Balangui appealed to this court, but a few days after the trial of the case in this second instance he filed a written request to withdraw his appeal as he was disposed to serve his sentence. This writing was ratified by him before a witness in the presence of the Director of Prisons.

The facts above-related, fully proven in this case, constitute the complex crime of robbery with homicide, prescribed and punished by articles 502 and 503, paragraph 1, of the Penal Code, inasmuch as it appears proven beyond peradventure of doubt that between the hours of 8.30 and 9.30 of the said night, the house of the unfortunate Miss Anna E. Hahn, who lived alone therein, was entered by two persons armed with a stick and an iron bar, accompanied by another who remained near by on the premises, for the purpose of robbing the same; that to that end they assaulted their victim with the said stick and iron bar, inflicting fifteen wounds on her face and head, one on her neck, and another on her right side; that some of the wounds on the head were mortal, the blows fracturing the skull, in consequence of which she died instantly; that on leaving the house the robbers took with them a traveling trunk that contained clothes and other articles belonging to the deceased, and which trunk, together with its contents was found on the morning of the third day in an adjoining cornfield, and, on the 14th of March following, the iron bar with which the crime was committed was found a short distance from the place where the trunk had been found in the same field.

It is indisputable that the said crime, which was duly qualified as robbery with homicide, was committed, since the unfortunate victim of the atrocious act was living and in good health until about 8 o'clock on the evening of Tuesday, January 28, at which time several of her pupils who had been there to receive their lessons left her at the house. On the following day she was found dead, her body showing seventeen wounds. Therefore there is no doubt that she lost her life in a violent manner, and not as the consequence of some disease. From the fact that a book was found open and lying face downward on the table it is indubitable that the deceased was reading when the robbers entered the sala and she placed the book on the table on rising from her chair to receive them. The hand lamp which probably furnished light for her reading must have been taken to the bedroom by one of the aggressors before or after assaulting her and placed on the table where it was found, for their use in committing the robbery, which was the final object of the malefactors. The cause furnishes no evidence that they had put her to death for any motive other than that which led them to the said house, therefore it is undeniable that they killed her in order to rob her with safety to themselves and without any hindrance. In fact this was so said by Eusebio Burias to Macario Balangui; that is, that they killed Miss Hahn because she recognized him in the act of the assault.

It was also clearly proven in the case that the crime of robbery was committed. The finding of a trunk containing clothes, letters addressed to the victim, and other articles belonging to her, by the local authorities and their agents in the cornfield contiguous to the scene of the crime on the third day after its execution, proves in an incontrovertible manner the commission of said crime, so that it can not be denied that the complex crime of robbery with homicide was committed.

No one witnessed the execution of the crime except the principals thereof, but by the revelations of Macario Balangui, who remained on the premises, it is possible in a way to reconstitute the acts of which the unfortunate teacher, Miss Hahn, was the victim, at least from the time the robbers entered the house up to the moment they left it carrying, with them the trunk with the iron bar on top. In order to fix and determine what share the accused Burias and Aldea took in said crime it is therefore necessary to look to the testimony of Macario Balangui and the other data and merits of the case.

The judge who tried the case and made the findings of fact, held that the participation and responsibility of Macario Balangui was that of an accomplice, who, with knowledge of the commission of the crime, participated in its execution by acts previous to and during its commission, thought not as principal. Macario Balangui, in relating what occurred in his presence before and after the death of Miss Hahn, and in incriminating his codefendants Burias and Aldea, neither denied nor excused, but indeed confessed the part taken by him, and which the court below qualified as cooperation in the crime, so there is no lawful reason why these confessions and incriminations against his coaccused should not be taken into account. Only those confessions and incriminations made by a coprincipal or accomplice who absolutely denies the charge and the facts alleged by the prosecution, and to excuse himself attributes to another person the execution of the crime should be rejected. The testimony of Macario Balangui is the more admissible and worthy of credit inasmuch as it is corroborated by circumstantial evidence and by certain statements of Eusebio Burias, and because it was neither denied nor proved to be false during the trial.

The two accused, Eusebio Burias and Lucio Aldea, denied the charge and pleaded not guilty, but in spite of their respective allegations in their defense, the case furnishes against them the incriminating testimony of Macario Balangui, which, coupled with a great deal of circumstantial evidence, proves in a satisfactory manner the guilt of said accused as the only principals by direct participation, fully convicted, of the complex crime of robbery with homicide.

A few days prior to the commission of the crime, Eusebio Burias left the service of the teachers Mr. Gregg and Mr. Scheer, and it is not true that he afterwards entered the service of Captain Parsons. He was then without occupation and means of living, and though he lacked the money with which to purchase the necessities of life he proposed to resort to gambling. He attempted to buy four gamecocks from Angel Borbon on credit, but Borbon's wife would not consent to his taking them without having first paid the price. Two days prior to the occurrence, in the presence of Valeriano Delgado, he requested a person in the cockpit to loan him some money which he promised to repay on the next day when he would get some, he said, from an American teacher who had commissioned him to look for a servant for her. On the afternoon and night of the date of the crime said Burias was walking around the streets near the house of his victim, seeing her in the store of a Chinaman he stopped to watch her. While in that position he was seen by a cavalry sergeant named William Bigger who, upon hearing of the crime, spoke of it to another person and testified to the fact in court in the presence of the accused. The latter in turn could not state with precision where he was from half past eight to ten o'clock of the said night of Tuesday, January 28, although in his testimony he says that he was in the vicinity of the place mentioned, and while Balangui related the facts under oath in the presence of the accused Burias, the latter heard impassively and without protest the statements and revelations of Balangui attributing to him the principal part in the commission of the crime herein prosecuted.

Moreover, the defendant Burias that night was dressed in khaki, and was seen by the policeman Macatangay, who was on duty after 8 o'clock at the corner of the streets P. Burgos and Aguinaldo, walking toward the place where the house of the victim is located. When brought before the municipal president on the afternoon of the 29th, spots of blood were discovered on his khaki shirt and trousers as well as on his khaki coat which was taken from his house; he alleged that the blood was that of a cock belonging to Jose Espino which he had in his possession, but the latter denied having seen him in the cockpit on Sunday the 26th.

It should further be borne in mind that the deceased lived alone in her house, and that the accused Burias, who by the testimony of Mr. Gregg understands English very well, became acquainted with Miss Hahn's means and resources through the conversations of Messrs. Gregg and Scheer at meal times. It is not to be wondered at that the accused, in view of his needy condition and lack of money, should have contemplated securing it from Miss

Hahn either with her consent or by force. Obtain it he did, and deprived her of her life.

The third letter, written in prison by Eusebio Burias, on March 6, 1908, and addressed to John Nelson, a policeman, in the main undoubtedly relates the real facts as they occurred. With the exception of the name of a man called Balar, and other particulars invented by its author, the letter substantially agrees with the testimony of Macario Balangui. Certain statements contained in the letter, as for example that they found the deceased reading a book in the sala; that after asking them what they wanted she ran toward the bedroom wherein she attempted to confine herself; that she was struck on the head with a wooden stick and an iron bar; that she fell down inside the said room, and that a trunk was taken out of the house—all these and other Retails specified in the letter produced at the trial appear to be fully confirmed by the evidence in¹ the case as above set out. The allegation made by the accused that the letter in question was dictated by the policemen can not therefore be considered as true because the said policemen denied it, and in effect they were not present at the commission of the crime of which Burias was undoubtedly one of the principals. Furthermore, the accused when questioned as to the crime by Mr. Buck, who went to the prison to investigate the case, told the latter to read the letter which he had written to Nelson because the facts were stated therein.

Against the other accused, Lucio Aldea, there is the declaration of Macario Balangui to the effect that before Burias entered the house he went toward the fence of the cornfield and called out to Aldea, who shortly afterwards appeared and made himself known to Balangui. There is also the statement of the said Burias in the aforesaid letter of March 6 to the effect that Lucio Aldea was one of those who perpetrated the crime and was the first to strike the deceased.

The stolen trunk and its contents were found in the cornfield in charge of the accused Aldea on Thursday morning, and Aldea, when asked by the municipal president in the presence of witnesses on the afternoon of the same day about the said articles, answered that, in effect, he had heard that the trunk had been found on the previous day, Wednesday, thereby giving his hearers to understand that he was aware that the trunk was in the field before it was actually discovered. Footprints similar to those of the accused Aldea were found in places where the earth was damp, leading from the spot where the trunk was found toward the house of the accused.

When this individual was arrested, blood stains were observed on his clothing, and on being questioned in regard to them he first said that they were caused by banana juice, but later declared that they proceeded from the blood of a cock whose comb he had cut on the 26th of that month.

With respect to the menaces and promises alleged by the accused Aldea and Burias to have been made by the policemen Nelson and Macatangay, the latter deny having made them, and the case offers not the slightest proof or indication to the contrary.

From all this circumstantial evidence derived from proven facts and which corroborates Balangui's testimony, which testimony has been confirmed in its essentials by the letter written by the accused Eusebio Burias, one is fully convinced, beyond a reasonable doubt, of the guilt of the said Burias and Aldea as the proven principals of the complex crime in question, which is one of the four extremely grave crimes punished by the Penal Code in force with two indivisible penalties of cadena perpetua to death.

In the commission of the crime in question the aggravating circumstances of subdivisions 9, 15, and 20 of article 10 of the Penal Code must be considered, without any mitigating circumstance to counteract their effects. The robbers perpetrated the crime of robbery with homicide, taking advantage of the silence and darkness of the night; they committed it in the dwelling of the offended party, and they assaulted her simultaneously in order to render ineffective or weaken any defense, and to prevent flight on the part of the victim, and therefore by paragraph 1 of article 80 of said code, the penalty which should be imposed is the greater pf the two provided by said paragraph 1

of article 503.

By the foregoing it is shown that the errors assigned by counsel for defense as committed by the court below are without any reason or foundation.

In regard to Macario Balangui, who was sentenced as an accomplice to the medium degree of cadena temporal, no action should be taken in this decision, as he has withdrawn his appeal and stated that he is disposed to serve the sentence imposed upon him.

Therefore by virtue of the foregoing considerations and those of the judgment of the lower court which are not inconsistent herewith, we should affirm, as we do hereby affirm said judgment, with one-third of the costs against each of the accused, provided however, that the execution of the death penalty imposed upon two of the accused shall be carried out in accordance with the provisions of Act No. 1577 of the Philippine Commission, and that in case the death penalty should be remitted by pardon of the guilty parties, the latter shall suffer the accessory penalties provided for by article 53 of the Penal Code, unless they be expressly remitted in the pardon.

The appeal presented by Macario Balangui from the judgment of the court below will be considered as withdrawn, and the judge below, who will immediately be informed of this decision, shall proceed according to law to the end that said Balangui shall at once commence to serve his sentence. So ordered.

Arellano, C J., Mapa, Johnson, Carson, and Willard, JJ., concur.

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