

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VALERIA DE CHAVES, DEFENDANT AND APPELLANT.*G.R. No. 5210. December 04, 1909*

Ponente: TORRES, J.

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On the 2nd of November, 1908, Valeria de Chaves, accompanied by her husband, appeared before the provincial fiscal of Batangas and gave information regarding a robbery alleged to have been committed in her house by Marcelo Remo, Ciriaco Josaeta, and Aniceto Aguila on the night of February 27 of said year; and to this effect she testified under oath before the said officer and recounted the particulars of said robbery in Tagalog, because she was unable to speak Spanish. Her testimony was translated into Spanish by the fiscal himself and typewritten by Lucio Velasquez, a copyist to whom it was dictated while the exponent was testifying. At the termination of the testimony the copyist read it to Valeria de Chaves in Tagalog, and as the latter found it correct she put a cross between her name and surname.

It was stated in the testimony that on the night in question the complainant had seen the three accused steal from her house, situated in the town of San Jose, Batangas, a trunk that belonged to her and which contained jewelry and money, and that she offered no opposition nor uttered any cries because one of the thieves threatened to kill her with the bolo that he carried if she called out for help. However, at the trial of the case on the 5th of January, 1909, Valeria de Chaves in her testimony stated that on the said night she did not see any of the accused commit the robbery, but that it was her daughter, a girl about 6 to 7 years old, who awoke her and informed her that the three accused persons had stolen the said trunk, and that one of them had threatened her with a bolo if she cried out.

A complaint was therefore presented by the provincial fiscal on the 5th of January, charging Valeria de Chaves with committing the crime of perjury, in violation of section 3 of Act No. 1697. Proceedings were instituted, and the trial judge sentenced her, on the 16th of January last, to the penalty of one year's imprisonment and a fine of P100, with subsidiary imprisonment in case of insolvency, and costs. From this judgment the representative of the accused has appealed.

The matter involved herein is the crime of perjury dealt with in Act No. 1697, section 3 of which provides that—

"Any person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the Philippine Islands authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand pesos and by imprisonment for riot more than five years; and shall, moreover, thereafter be incapable of holding any public office or of giving testimony in any court of the Philippine Islands until such time as the judgment against him is reversed."

The accused, Valeria de Chaves, declared under oath before the provincial fiscal of Batangas that she was robbed late at night on the 27th of February, 1908, and in spite of the fact that, according to the complaint, the informant when testifying in the case instituted for said crime contradicted her previous declaration and denied that she had seen the thieves at the time of the stealing of the trunk containing money and jewelry, as was stated by the fiscal in the record of the investigation held at his office, and alleged that it was her daughter of 6 or 7 years of age who woke up and witnessed the robbery and was threatened by one of the robbers, and the one who, after the robbers were gone, called her and informed her of what had occurred, giving her the names of persons involved; it is nevertheless true and unquestionable that the said crime of attempt against the property was committed, for which reason it can not be held that a criminal act was falsely imputed to a third person or persons that did not take place, because the robbery was committed and the injured parties have not recovered the money and jewels which the robbers took away, notwithstanding the fact that one of them, Marcelo Remo, promised to return them in consequence of the efforts made by the husband of the accused. The crime of perjury is alleged to have been committed because of the declaration and subsequent denial that Valeria de Chaves had witnessed the act of robbery, as affirmed by her before the fiscal of Batangas.

There is no satisfactory proof in the record that the accused knowingly and intentionally testified in the case anything that she believed to be in violation of her oath when she declared before the said fiscal of Batangas, inasmuch as she averred that she was the victim of a robbery, which is true and incontrovertible. If in her subsequent declaration she stated that she had not seen the thieves and only became aware of the fact by the information she received from her daughter who recognized them and witnessed the robbery, upon which last statement she strenuously insisted, it is to be presumed that because she did not understand Spanish, or through error or by misunderstanding the questions put to her, the accused said that she had seen the robbery herself and knew of it from her own knowledge; it did not occur to her to state that she was informed by her daughter who was an eyewitness of the robbery.

The accused being the person who suffered by reason of the said robbery, in insistently affirming in her declaration in connection with said crime that, when her daughter woke her, the thieves were no longer in the house, her statement must have been her true and conscientious opinion, and no reason appears that might have induced her to change her first declaration before the fiscal; it must therefore be assumed that she made the statement by mistake, owing to her ignorance of the Spanish language, and to the fact that she did not fully understand the questions put to her.

A mere contradiction, not of the principal fact, which in this case is the robbery, but with respect to certain details of more or less importance, is not necessarily indicative of falsehood in the declarations of Valeria de Chaves, because, in view of their tenor and the lack of proof that there was an intent to pervert the truth, it is not possible to state in which of the two declarations the error or inexactitude occurred, or whether it was committed voluntarily or involuntarily; in view of the doubt, it is proper to hold that she stated the truth before the trial court and the error or mistake was committed when she testified before the fiscal.

Therefore, and because of the lack of proof of the crime of perjury, punished by the aforesaid Act, it is our opinion that the judgment appealed from should be reversed and the accused Valeria de Chaves acquitted, and we hereby acquit her with the costs of both instances de oficio. So ordered.

Arellano, C.J., Carson, and Moreland, JJ., concur.

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