

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ARSENIO DE GUZMAN AND OTHERS, DEFENDANTS, LEOCADIO CRISOSTOMO, MAXIMO REYES, SEGUNDO CAPUCHINO, MAXIMO TAYTAY, BERNARDINO MARTINEZ...

G.R. No. 5474. July 15, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

The scene of the crime which gives rise to this action is laid among the sugar plantations of the Province of La Laguna. Three of these plantations belonged, at the time this crime was committed, to Dr. David Zavalla, Pedro Perlas, and Pablo Manguerra, respectively. The three haciendas mentioned join each other and are situated about one and one-half hour's carromata ride from the village of Santa Rosa. At the time of the commission of the crime there were employed on the hacienda of Doctor Zavalla about 20 nien, both aparceros and laborers, under the direction of one Leon Alinsod. At that time Sr. Perlas employed on his hacienda about 17 aparceros and 6 carpenters, the latter residents of the village of Santa Rosa and employed temporarily. Manuel Flores, the son-in-law of Sr. Perlas, was the superintendent of this hacienda. On the hacienda of Sr. Manguerra there were 10 aparceros and 18 laborers, the latter belonging to the municipalities of Bauan and Batangas, and having as their foreman one Reynaldo Castillo. The superintendent of this hacienda was Esteban Rico. Some miles farther to the west across the limits of the Province of La Laguna was the hacienda of Basilio Gonzalez, where, at the time in question, were employed 12 aparceros and 30 laborers. Each one of these haciendas had buildings and machinery constructed and maintained for the manufacture of sugar from the cane, near each one of which said buildings was a group of nipa houses where the aparceros and the laborers lived.

On the night of the 27th of January, 1909, the men employed on the above-mentioned haciendas disappeared therefrom and with them certain personal property belonging to the hacenderos. From the hacienda of Doctor Zavalla disappeared a horse, an ox, a carromata and a quantity of rice; from the hacienda of Sr. Perlas disappeared a horse and a shotgun; from that of Sr. Gonzalez a shotgun and a bull. On the morning following, about one-quarter of a mile from the camarin on the Zavalla hacienda at the edge of a thicket was found the mutilated corpse of Doctor Zavalla, and a short distance therefrom the dead body of his foreman, Leon Alinsod. The corpse of Manuel Flores of the Perlas hacienda was found a day or two later buried in a plowed field near the camarin of that hacienda.

On making these discoveries known to Governor Cailles of the Province of La Laguna, he, with the aid of the local Constabulary, took measures to discover the whereabouts of the persons who disappeared from the haciendas and to capture the thieves and murderers. Two or three days later the absent individuals began to return and to recount what had happened. They stated that during the late hours of the afternoon or the first hours of the evening of Wednesday, January 27, they were forced to leave their homes by a party of individuals who threatened them with death unless they joined their party. In order to add force to their threats, they killed in the presence of some of them the three persons whose bodies were found as above described. They stated that after

having assembled the men of the different haciendas, the murderers obliged them to march toward the west in the direction of the mountains of Cavite, where they passed the night of the 27th; and that on the 28th they removed them to another place from which the most of them escaped that night.

As a result of the investigation made by the provincial government and the Constabulary, an information charging robo con homicidio and bandolerismo was presented in the court of the justice of the peace of Santa Rosa against all of the persons who appear to have been actually engaged in the acts of sequestration, robbery and murder above mentioned. After a preliminary examination twenty individuals, including the appellants in this case, were bound over to await the action of the Court of First Instance of that province. In that court, at the instance of the provincial fiscal, the information was dismissed against three of the accused. In the trial which followed six more were acquitted, and eleven condemned as guilty of the crime of bandolerismo. Those who were condemned appealed. Pablo Reyes, one of the appellants, has withdrawn his appeal and the judgment of the Court of First Instance is final as to him.

Two questions are raised on this appeal. One as to the sufficiency of the facts to sustain a conviction and the other as to the proper characterization of the crime by the trial court.

From the evidence produced it appears that on the morning of the 27th of January, 1909, Doctor Zavalla, a married man, 33 years of age, left his house in the village of Santa Rosa, in company with his little son, about two years of age, with the intention of passing the day on his hacienda. That same morning two strangers, named Nicolas Granado and Maximo Taytay, arrived at the Zavalla hacienda and were employed by the doctor to assist in the work of grinding the sugar cane. The first named, Nicolas Granado, is a nephew of the accused Bonifacio Granado, and he had been seen on the hacienda some days prior thereto. At the time in question he was stopping with his uncle. These facts are established by the testimony of Pedro Bartola who in his testimony says:

"I lived in the camarín of the deceased Doctor Zavalla. I have worked for him about two years. I saw him about 10 o'clock in the morning of the 27th of January. There were some persons who came to the hacienda that morning, apart from the laborers and aparceros who worked there. One was Maximo, whose surname I do not know. Another was Colas, whose surname I do not know. This said Nicolas had been there to the hacienda about a week prior to the 27th of January. That week he stayed with Bonifacio, one of the aparceros of Doctor Zavalla. Bonifacio had at this time been aparcerero for about four months. Prior to that time he worked with Pedro Perlas. On this morning Maximo arrived ahead of Nicolas. This one is Maximo [indicating Maximo Taytay] and this one is Bonifacio [indicating Bonifacio Granado]."

Later on this witness, in answer to the question:

"Who were those who you said came there?"

replied:

"Nicolas and Maximo. These persons came there that morning, the 27th of January. Maximo was the person who stayed in the house of Bonifacio Granado the week prior to the 27th of January. It is said that Bonifacio is the uncle of Nicolas. When Nicolas and Maximo Taytay came there they talked with the superintendent Leon. They also talked with Leocadio. Before the arrival of Segundo, Leocadio, Catalino, Maximo and Rufino, Maximo and Nicolas talked with the foreman Leon and asked him to go along with them and these two were accompanied also by two others called Maximo and Cadio (probably Maximo Reyes and Leocadio Crisostomo). Maximo and Nicolas also talked with Leocadio. Leocadio approached Maximo and Nicolas, calling to them at the same time. After having talked with Leocadio, there arrived someone driving a carromata loaded with rice, who delivered a letter to Leon, whereupon Leocadio took possession of the letter." The witness Pablo Barroquio, speaking of the arrival of the party in question at the Zavalla hacienda on the morning of the 27th said:

"When I was there with the other persons whom I have named, together with Doctor Zavalla, some other persons arrived on that afternoon; They were Catalino, Leocadio, Segundo, Maximo, another person named Maximo, Pablo, Macario, Bernardino, Rufino and Juan. They came on foot, some after the others. They were armed with bolos. I should be able to recognize these persons if I saw them."

On being asked to point them out, the witness said:

"This person, whose name I do not remember [indicating Pablo Reyes]; this one Maximo [indicating1 Maximo Reyes]; Bernardino [indicating Bernardino Martinez]; Leocadio [indicating Leocadio Crisostomo]; Segundo, whose surname I do not know; Maximo [indicating Maximo Taytay]; this one [indicating Rufino Bayadan]; this one [indicating Macario Corali]; this one, called Juan [indicating Juan de Asis]."

The witness Severino Ramirez testified in relation to the arrival of the persons on the Zavalla hacienda on the afternoon of the 27th of January that he was at work in the camarín when there approached a number of persons who obliged him to mount a carabao and follow them. On being asked who they were he replied that he did not know them by name but that he would know their faces if he saw them. He stated that these persons, with others, who took him away to the forest were Pablo Reyes, Maximo Reyes, Bernardino Martinez, Leocadio Crisostomo, Segundo Capuchino, Maximo Taytay, Macario Corali, Juan de Asis, and Rufino Bayadan.

Late in the afternoon, while the doctor was occupied in the field, about one-quarter of a mile distant from his house, directing the work of five *aparceros*, there approached him a group of strangers. , They were nine in number, consisting of Catalino Lachica, Leocadio Crisostomo, Segundo Capuchino, Maximo Reyes, Pablo Reyes, Bernardino Martinez, Rufino Bayadan, Juan de Asis, and Macario Corali. The identity of these men is established by the witnesses above named. As will be noticed from the testimony above given, the witness Pablo Barroquio, in addition to those above mentioned, named Maximo Taytay as one of the party. This individual is also included as one of the party by the witness Severino Ramirez above mentioned.

When the party were first seen approaching the doctor and his workmen, it was noted that one of them, Segundo Capuchino, separated from the others and started toward a field contiguous to the *Per las hacienda*, where two of the accused, Zacarias Patian and Crispino Ame, were working. Immediately these two were seen to accompany Segundo Capuchino to the place where the two companions of Segundo were waiting and there hold a conference with the chief of the party, Lachica. Thereafter the two went away in the direction of the camarín on the hacienda of Sr. Perlas. These facts are found stated in the testimony of Pedro Bartola.

After the conference with these two individuals, four of the nine approached Doctor Zavalla, and began a conversation with him, while the other five congregated about him menacing with their drawn bolos the men who were working for the doctor. The testimony in relation to the conversation which they had with the doctor is that, on being threatened with death if he refused to join the band, he consented to do what they required, inviting the chief, Lachica, to accompany him to the camarín to get his little boy. On seeing that the doctor had consented to accompany the party, the accused Bonifacio Granado, one of. the *aparceros* who had been working for the doctor in the field, cried to the four who were near the doctor, saying, "What, are you going to leave that man alive?" On hearing this exclamation, the four, instead of accompanying the doctor to the camarín, according to the agreement which they had reached, instantly assaulted him, whereupon the doctor began to run across the plowed field in the direction of the copse or thicket nearby. When those who were guarding the *aparceros* saw that their companions were attacking the doctor, they compelled them to march in the direction of the camarín. For that reason the witness whose declarations we are summarizing here did not see the result of the attack upon the doctor. The four individuals who killed Doctor Zavalla were Catalino Lachica, Leocadio Crisostomo, Segundo Capuchino, and Maximo Reyes. The identity of these men having been clearly established it results that the other five, Pablo Reyes, Bernardino Martinez, Rufino Bayadan, Juan de Asis, and Macario Corali were the persons who

sequestered and guarded the aparceros while the doctor was being murdered.

On arriving at the camarín the five Aparceros, who were in custody, found there, according to the testimony of Pedro Bartola, Nicolas Granado, and Maximo Taytay. In a short time there came to the camarín the four who had had charge of the doctor but the doctor did not accompany them. On the arrival of these four, one of them, Leocadio Crisostomo, had a conversation with Nicolas Granado and Maximo Taytay, whereupon the second step in the proceedings seems to have been taken, namely, the congregation of all the aparceros and laborers at this point, where they were placed in custody between the dwelling houses and the camarín. In the meantime, there arrived at the camarín in a carromata an aparcero by the name of Catalino Tuson, coming directly from the village of Santa Rosa and fringing a letter for Leon Alinsod, the foreman of Doctor Zavalla. The latter came from, the place where he was working to the carromata to receive the letter, but the same was snatched from his hands and torn to pieces by the accused Leocadio Crisostomo. immediately thereupon, according to the declaration of the witnesses Pedro Bartola and Pablo Barroquio, four men seized Leon Alinsod and carried him in the direction of the field where Doctor Zavalla had been seen for the last time alive. Among these four men were the two who had arrived that morning at the Zavalla hacienda, namely, Nicolas Granado and Maximo Taytay, together with two of the men who had seized and killed Doctor Zavalla, namely, Leocadio Crisostomo and Maximo Reyes. When these four men returned to the place where they were last seen with Alinsod, they returned alone. Alinsod was never seen thereafter alive.

Catalino Tuson, describing his arrival and the subsequent disappearance of foreman Alinsod, declared that the foreman was taken away by three individuals, designating Leocadio Crisostomo and Maximo Reyes as two of them, and Segundo Capuchino as the third. Segundo Capuchino, testifying in his own behalf, stated that he was one of the four who killed Leon Alinsod, the other three being Nicolas Granado, Maximo Taytay and Leocadio Crisostomo. As to the carromata in which Catalino Tuson arrived from the village of Santa Rosa, Pedro Bartola, and Pablo Barroquio both testified that Bonifacio Granado took the carromata, hitched to it an ox and drove the vehicle in the direction of the barrio of Bayabasah, the place where the captured workmen were guarded that night, taking with him a part of the rice which Tuson had brought from Santa Rosa; that Bonifacio abandoned the carromata and carried the rice to the place where Lachica and his band, together with those captured by them, reunited the following day. It was then prepared and eaten.

As to the horse taken from the hacienda of Doctor Zavalla, the record does not show clearly the particular person who had it in his possession, but it appears that, when Lachica's band arrived at the hacienda of Mr. Perlas, the horse was in their midst. It was also seen in their possession the following day.

Doctor Zavalla and his foreman having been killed, and their property taken, and their workmen captured, as above described, the property and men were taken by Lachica and his band in the direction of the Perlas hacienda, where they arrived shortly after 6 o'clock in the evening, about the time the workmen were terminating their day's labor and returning to the camarín. Here at this hacienda was again enacted, a tragedy similar to that which we have already related. Pedro Perlas himself was not at the hacienda. There was there, however, his son-in-law and foreman, Manuel Flores. Lachica approached him and began a conversation with him, just as he had done with Doctor Zavalla. The witnesses Pedro Bartola, Pablo Barroquio, Emeterio Canin, and Catalino Tuson in their testimony agree that while Lachica and Flores were talking together, the latter was struck by a club in the hands of the accused Pablo Reyes and that after he had been felled, to the ground by this blow he was stabbed and killed by Lachica. Immediately thereupon the accused Zacarias Patian entered the house of the deceased and took his shotgun, while the accused Crispino Ame took possession of his riding whip, which he later used effectively to keep his companions in line during the march. It should be noted here that Zacarias Patian and Crispino Ame were the two individuals belonging to the Perlas hacienda who had the interview with Lachica when Lachica's party

first arrived at the Zavalla hacienda.

It should also be noted, as a reason why the laborers of the three haciendas submitted so resignedly to the criminal acts of so small a party as that of Lachica, that they saw Bonifacio Granado, a workman of Doctor Zavalla, and Zacarias Patian and Crispino Ame, workmen of the Perlas hacienda, acting in conjunction with Lachica and his men in committing these acts of sequestration, robbery and assassination.

Manuel Flores, at the time of his death, had a horse and saddle near the house of Emeterio Canin, where he lived, both of which were taken by Lachica and used personally.

Before leaving the Perlas hacienda, Lachica compelled Aniceto Araela, one of the workmen of the Perlas hacienda, to dig a grave in a ploughed field near the camarin, in which the two individuals who had killed him buried the corpse of Manuel Flores.

In the meanwhile the workmen of the two haciendas, Zavalla and Perlas, were congregated in relatively the same place as were the people of the Zavalla hacienda when the party was committing its depredations there.

The witness Emeterio Canin of the Perlas hacienda recognized among those who formed the Lachica party the eight persons, with the exception of Juan de Asis, who accompanied Lachica when the crimes were committed at the Zavalla hacienda.

The accused Bernardino Martinez was pointed out in particular by the witness Pastor Baguian, one of the aparceros of the Perlas hacienda, as one of the three individuals who ordered him to dismount from his carabao when he arrived from his work. The accused Macario Corali, one of the original party of nine, is specifically designated by the witness Aniceto. Ariela of the Perlas hacienda as one of the persons actively engaged in intimidating the workmen of the Perlas hacienda and of maintaining them in custody. He was also seen by this witness the following day in the woods setting the captured workmen in line for the march.

While the majority of the workmen captured on the Perlas and Zavalla haciendas were congregated on the Perlas hacienda in the custody of some of the Lachica party, the remainder of them were taken by others of Lachica's band to the Manguerra hacienda. Arriving there, Lachica and the accused Zacarias Patian entered the house and were informed by Herarda and Josef a Manguerra, the two oldest daughters of the owner of the hacienda, of the whereabouts of their father. When the murderers entered the house these two young ladies were about to seat themselves at supper and they invited the bandoleros to eat with them; but, when Lachica informed them that he had killed Doctor Zavalla and that there was a general uprising or revolution, they began to understand the gravity of the situation, and, when Lachica intimated to them that they must go with the others to Bayabasan, they did not hesitate a moment in complying with his order. In explanation of his act requiring the young ladies to accompany him, Lachica told them that he feared if he left them behind they would denounce him to the authorities. From the testimony of Reynaldo Castillo, foreman of the Manguerra hacienda, one of the three laborers from Bauan, it appears that the workmen of the Manguerra hacienda obeyed the orders of the bandoleros having been informed of the frightful crimes committed on the Zavalla and Perlas haciendas, and having been threatened with death in case they refused to follow Lachica and his band. This witness asserts specifically that when he arrived at the Perlas hacienda, he saw there the accused Venancio Marasigan. The following day he again saw . Venancio Marasigan in the forest. He also states that Marasigan carried a shotgun until the time when he saw that he was likely to fall into the hands of the Constabulary. He then threw it into a ploughed field. This accused confessed to Lieut. Antonio Gomez that that was what he did with the gun, and it was later found in the place where it had been thrown by Marasigan and returned to its owner. According to the testimony of the witness Narciso Aleriano, one of the workmen of Basilio Gonzales, it appears that on the 28th of January the murderers killed and ate an ox belonging to Gonzalez. The witness pointed out among those who were present at the commission of this robbery

all of the accused except Macarib Corali, one of the original party of nine.

The number and the identity of the individuals who composed the original party of nine is admitted by three of said party, who testified as witnesses for the defense.

The learned counsel for the appellants have elaborately argued that the crime proved is not bandolerismo, and have cited numerous authorities to support their contention. We are of the opinion, however, that whether or not the crime committed was bandolerismo is not necessarily of decisive importance in this case. The facts alleged in the information fully, clearly and distinctly charge the crime of robbery with homicide, as defined and penalized in article 503, paragraph 1, of the Penal Code, as well as the crime of bandolerismo. The information reads:

"That on or about the 27th day of January, 1909, in the municipality of Santa Rosa, Province of La Laguna, the said accused Arsenio de Guzman, etc., conspiring together, organized a band of robbers, armed with deadly weapons, for the purpose of sequestering persons by means of force and violence, and to rob and appropriate to their own use various kinds of personal property;

"That in obedience to such purposes the said accused, armed with bolos and other deadly weapons and led by the accused, Catalino Lachica, captured and sequestered, on or about the 27th day of January, 1909, by means of intimidation, force and violence, a large number of persons, residents of the barrio of Camaligan, of the said municipality of Santa Rosa, and of Bayabasan, in the municipality of Silang, Province of Cavite, compelling and obliging the said persons to go with them to the mountains and forests of said Province of Cavite;

"That also in obedience to such purpose the accused appropriated to their own use, and to the use of the band or its chiefs, on or about the 27th day of January, 1909, the following goods and personal property, the property of one David Zavalla, to wit, one horse, one steer, one carretela and a cavan of rice; also the following goods and personal property belonging to one Manuel Floret to wit, one shotgun and one watch; also some ammunition belonging to one Pablo Manguerra; also one ox and one gun belonging to one Basilio Gonzalez;

"That in obedience also to the purpose to capture men, to rob and appropriate personal property, said accused attacked with bolos and other deadly weapons and killed, on the 27th day of January, 1909, aforesaid, the following persons, to wit, Doctor David Zavalla, Leon Alinsod, and Manuel Flores."

The crime of bandolerismo, as set out in the above information, includes the crime of robbery with homicide. We have repeatedly held that an accused may, the proofs warranting it, be convicted of any crime described and charged by the facts set out in the information irrespective of the characterization of the crime made by the prosecuting officer. The situation of the accused would not be improved by a conviction of robbery with homicide rather than bandolerismo.

The learned trial court found the appellants herein guilty of bandolerismo and sentenced them as follows: Leocadio Crisostomo and Maximo Reyes to the penalty of death; Segundo Capuchino and Maximo Taytay each to thirty years' imprisonment; Bernardino Martinez, Venancio Marasigan, Bonifacio Granado, and Macario Corali, twenty years each; and Zacarias Patian and Crispino Ame, twenty-five years each.

Whether from the standpoint of bandolerismo or of robbery with homicide, we can see no reason whatever why the same sentence should not have been pronounced against Segundo Capuchino and Maximo Taytay as was pronounced against Leocadio Crisostomo and Maximo Reyes. As we have pointed out in the discussion of the proofs in this case, the evidence conclusively demonstrates that each of these two men took direct and active part in at least one brutal, atrocious, and treacherous murder and lent their presence and aid in others. We are confident that the learned trial court erred in fixing the penalty in these two cases.

For these reasons the judgment of the court below is hereby modified in such way that Segundo Capuchino and Maximo Taytay are each sentenced to death, as they hereby are. So modified the judgment is affirmed, with costs

against the appellants.

Arellano, C. J., Torres, Johnson, Carson, and Trent, JJ., concur.

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