

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LORENZO SISON, FRANCISCO BILLADO, AND HILARION DE LA CRUZ, DEFENDANTS AND APPELLANTS.

G.R. No. 5752. March 11, 1911

Ponente: TRENT, J.

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TRENT, J.:

On August 21, 1909, the defendants and appellants, Lorenzo Sison, Francisco Billado, and Hilarion de la Cruz, were each sentenced by the Hon. Albert E. McCabe, judge of the Court of First Instance for the Tenth Judicial District, sitting in Bacolod, Occidental Negros, to imprisonment for seventeen years and four months, and to indemnify, jointly and severally, the heirs of Santiago Bolanon in the sum of P1,000 and Leona Bolanon in the sum of P50, together with the costs, for the crime of homicide.

Although the three defendants were joined in the information, Francisco Billado, owing to his absence at the time the case was called for trial, was tried and sentenced separately, his sentence being, however, in the precise terms of the sentence against the other defendants.

Early in the evening of Friday, February 26, 1909, the deceased, Santiago Bolanon, an elderly man, residing at a place known as Sandayon, situated at a distance of some three hours' walk from the town of Sagay, Occidental Negros, was assaulted by three men armed with bolos while near the foot of the stairs of his house, from which he had just descended. His daughter, Leona Bolanon, hearing the disturbance, looked out of the window and saw the assault, whereupon she armed herself with a bolo and attacked the assailants, but not until they had fatally wounded her father, who remained unconscious until he died early the next morning from the effects of his wounds.

At the time of the assault the only persons at home besides the deceased were his daughter, Leona, and her mother, but the mother did not appear as a witness in any of the proceedings against the defendants on account, it is claimed, of her illness. The identification of the defendants as the assailants of the deceased rests solely upon the testimony of his daughter, Leona Bolanon.

The defendants do not deny the circumstances which resulted in the death of Santiago Bolanon, but claim to have no knowledge of the deed, save what they learned from others, and attempted to account for their several whereabouts at the time of the occurrence in question. Thus it is apparent that the case hinges upon the weight which should be given the testimony of the witness Leona Bolanon, with all the surrounding circumstances, and the evidence in support of the alibi set up by each of the defendants.

Leona Bolanon, 18 years of age, having identified each of the defendants as they sat in the court room, testified as follows:

"On Friday afternoon about 6 o'clock my father went downstairs from the house. Hearing a noise downstairs, I looked out of the window and saw my father being tied up by these men. After they had finished tying him,

they brought him upstairs into the house, and while doing so Francisco and Lorenzo were laying the bolo on my father's shoulder. When they arrived at the door of our house, Francisco delivered a blow on my father's head with the bolo, striking him about the middle part of the right side of the forehead, over the right eye. When my father turned his head around, Lorenzo then struck him a blow in the center of the forehead with a sharp fighting bolo. When I saw my father fall down after he had been struck in the middle of the forehead, I ran to the room and got a bolo. When I came out I was met by Lorenzo, and he struck me with his bolo, and I parried the blow and was struck on my finger. After he had struck me with his fighting" bolo, I returned the blow with my bolo, and he striking at me with the bolo he had, I parried the blow, both still striking, and the blade of his bolo separated from the handle, and it was then that the hand-guard and the ring fell to the ground. After the blade of his bolo had separated from the handle and he had seen that fact, he picked up the blade of his bolo and jumped from the house, passing through the doorway. Hilarion was standing on one of the steps of the stairway; he did not enter the room. All three were armed. After they jumped down from the house they ran away. The next morning I found that the door of our corral (toril), where the three carabaos were, had been opened. Previous to the occurrence the corral had been closed.

"It cost me P50 to cure the wound which I received on my finger, and I can not now [six months after the occurrence] bend the finger. [Witness shows scar on knuckle of third finger of left hand.]

"At the time the wounds were inflicted on my fathers' head he was somewhat inside the doorway and was tied. They tied my father when they were downstairs. Hilarion helped. When they caught my father I begged them not to kill him; that if they wanted to ask anything, to ask and we would give it to them, and then Lorenzo replied: 'You keep still up there.' These were the only words that any of the assailants said.

"The defendant Lorenzo Sison is the manager of the hacienda of Captain Juan Sison, near Sagay. Francisco also worked for Captain Juan. I was acquainted with the defendants Lorenzo Sison and Francisco Billado before this occurrence, but Hilarion, I was not acquainted with his name, but his features I know very well, and he is the person that was there with them. * * * On Sunday when we buried my father, and when I returned from the cemetery, I stopped at the store of Sanga, and sat down by the doorway of the store, and Hilarion was speaking in a low voice with another person, and I heard Hilarion say: 'Cabeza Tiago is dead,' and the other person then replied to him: 'Has he already died?' to which Hilarion replied: 'He had just a nervous shake and died.' This conversation was between Hilarion and two Chinamen. I alone heard the conversation."

On being shown a certain bolo in the possession of the prosecution and asked if it was the fighting bolo used by the defendant Sison on the night of the attack, witness replied:

"It is not the bolo. I saw this bolo on the person of Francisco, because he had the scabbard attached to his left side, and while they were downstairs before they came up in the house I had seen the bolos that they had with them. * * * Lorenzo's fighting bolo was similar, inasmuch as it had the same silver bands on the scabbard, and that bolo of his had the guard and this ring which we have before us."

In the Francisco Billado record Leona indentified the ring and guard shown her by the fiscal as the pieces that fell down during her encounter with Lorenzo. In answer to the question as to whether she saw them after her father's assailants left she replied: "They were underneath the house - underneath the stairs."

Leona further stated that after the assault her brother-in-law, Esteban Ugaban, arrived, but that when he arrived these people were already far away from the house. On being asked if she had any conversation with Esteban about the assault she replied:

"I didn't say anything to him, except that, in the morning, I told him to go ahead to the town and report the matter, and that I would follow, together with my brother, after him, and that on arriving there I would give all the information regarding it."

On the trial of the defendant Billado, on being asked these questions, Leona gave the following answers:

"Q. When Esteban arrived at the house and he found or discovered that your father had a large wound, did he not ask you the cause? To which she replied: How could Esteban ask regarding what had happened in the house, as we had all we could do to try to keep him (her father) from dying, as half of his head was already broken?

"Q. As he had seen these three men that were fleeing at a distance, didn't he ask you regarding them when he arrived at the house? - A. I stated before that he had no time to ask about what had happened in the house. We had all we could do to assist my father, who was dying."

On the trial of the defendants Sison and De la Cruz, Esteban Ugaban, brother-in-law of Leona, as a witness for the prosecution, testified that he arrived at the house of his father-in-law about 6 o'clock and that as he was approaching the house he saw three men at a distance running away; that he did not recognize any of them, and that he was acquainted with Lorenzo Sison. This witness (Esteban) further testified that -

"The next morning my mother-in-law told me to go to the town and report what happened to my father-in-law. They desired me to report the matter, that he died because he was wounded by blows inflicted upon him with *boJos*, and they stated to me: 'Go ahead to the town and report this, and Roman and Leona will follow afterwards and give the whole version of the affair. * * *' They were afraid that they would be blamed for what happened in case that the time should expire for reporting the matter."

On the trial of the defendant Billado, Esteban testified that it was after sunset when he arrived at his father-in-law's house, and that as he approached the house the three men who were running away were distant about 15 brazas. Esteban saw the wounds on his father-in-law's head. He remained all night in his father-in-law's house, assisting Leona in caring for the deceased. On reaching town the next day, February 27, he simply reported to the justice of the peace that his father-in-law had died. Being asked on cross-examination if he had not at the time filed a complaint before the said justice of the peace, he admitted that he put his cross to the complaint which was introduced in evidence as defendants' exhibit. This complaint is signed by Esteban Ugaban, under date of February 27, and charges that the crime was committed in the following manner by three unknown persons at 6 o'clock on the evening of February 26:

"They presented themselves beneath the house of Santiago Bolanon, father-in-law of complainant, and while trying to open the corral beneath said house for the purpose of stealing the carabaos, Santiago appeared, whereupon they immediately bound him, inflicting upon him at the same time the wounds from which he died at 4 o'clock this morning - also wounding his daughter, Leona, who came to the defense of her father."

Felix Gaspar testified on behalf of the prosecution that the guard and ring referred to by the witness Leona Bolanon were of the same shape and form as a guard and ring constituting part of a bob belonging to defendant Lorenzo Sison, claiming that Lorenzo on a certain Wednesday left the bolo to which the guard and ring belonged at his house, but came and took it away again on the same day.

Lorenzo Sison on his own behalf testified that the bolo which the prosecution had exhibited to the witness Leona Bolanon, and which she admitted was similar to the bolo in the possession of the person with whom she had the encounter at the time when she came to the rescue of her father, was his bolo and that it was the only fighting bolo that he owned.

Although the possession of this bolo by the prosecution is not clearly accounted for, it is pretty certain from the evidence that it was taken from the house of Lorenzo Sison, during his absence, by order of the municipal president of Sagay.

It further appeared from the uncontradicted testimony of this defendant that he was a political opponent of Epifanio Tupas, then president of Sagay, and that enmity existed between both the president and the justice of the

peace on the one hand and this defendant on the other, by reason of some previous lawsuit, so that they were not on speaking terms.

Defendant Sison and several witnesses on his behalf testified that on Saturday morning, February 27, he left the town of Sagay in a boat for the town of Barotac Nuevo, in the Province of Uoilo, for the purpose of bringing his mother and sister to his home in Sagay. Being detained there on account of bad weather, he did not return for nearly a week, and upon his return immediately heard that a warrant was out for his arrest for complicity in the murder of the deceased, Santiago Bolanon, whereupon he at once repaired to the tribunal and surrendered himself. Credible evidence of disinterested witnesses was also presented on behalf of this defendant to show that he engaged the boat for the purpose of going over to Barotac late in the afternoon of Friday, the day of the murder.

Each of the other defendants supported his alibi by evidence, in addition to his own testimony. As this case must, in our opinion, be disposed of upon the evidence of the prosecution rather than that of the defense, we do not deem it necessary to enter into the details of these defenses.

Leona Bolanon being the only witness for the prosecution who claims to identify the defendants as the perpetrators of the crime, the commission of which is not questioned, we must determine whether or not the testimony of this witness is sufficiently credible to justify the court in convicting these defendants. In analyzing the testimony of this witness the point considered is not whether she saw certain persons assault her father, or whether in attempting to rescue her father she had an encounter with one of his assailants and was herself wounded. These points are entirely credible. The question is whether the assault upon the deceased and the encounter of his daughter with one of his assailants took place, as the daughter claims, in the house and under circumstances such as would enable her to recognize the assailants, or whether it took place on the ground near the house and in the midst of such darkness that the daughter was unable to identify the assailants. The first extraordinary proposition that this sole witness against these defendants sets forth is that these three men, two of whom, being tenants of the neighboring hacienda, were well known to herself and presumably to her father, should come to their house by daylight for the purpose of stealing their carabaos. Such a situation is not only extraordinary, but, generally speaking, inconsistent with human experience and with the motives that actuate human beings. Ordinarily strangers from an unknown locality would not attempt such a deed, much less neighbors who were acquainted with the persons and surroundings of the assailed party. This circumstance alone is so altogether inexplicable as to arouse the gravest doubt as to the daughter's claim that the robbers came to their house at a time of day when it was so light she could identify them. If it was dark when the assault upon her father took place, then Leona, though she went to the rescue, would have had great difficulty in recognizing the offenders, unless they came up into the house, where there doubtless was a light. And, again, why should men caught in the act of stealing their neighbor's carabaos first bind such neighbor and then when he was helpless carry him into the house and there deliberately murder him in the presence of his wife and daughter? There is no pretense that any enmity existed between the defendant and the deceased. The defendant Sison positively testified that the deceased was one of his good friends. Leona was sure that the purpose that brought the robbers there was to steal their carabaos. Then, if this be true, it is inconceivable why they should have tied their victim while they were downstairs and then carry him up into the house for the purpose of murdering him. They knew that his daughter was there, because she had begged them to desist their assault upon her father and one of them had told her to be quiet. They also knew that they would be recognized by the daughter if they entered the sala. According to Leona's theory, the defendants left the sala after they had killed her father and seriously wounded her. If it was their intention to rob these victims, then there was no reason why they should have left at that time after their victims were practically helpless, and no other person had yet arrived. It is more probable that when the daughter found that her intercessions with her father's assailants were ineffective, she seized a bolo and ran downstairs to rescue him and there had an encounter with the assailants, receiving a wound on her hand. Not only does this

conform to the natural course of events, but it explains why the ring and the guard of the bolo were found on the ground near the house, or under the stairway, the next morning. And, furthermore, before retiring for the night the deceased went down to look after his carabaos; he did this at the precise time his assailants were attempting secretly to appropriate the animals, and, being caught in the act, they turned on him. His daughter, hearing the disturbance, appealed to them to release him. Finding her appeal disregarded she went to his assistance. The charge filed by Esteban Ugaban before the justice of the peace on the morning after the assault strongly corroborates the theory that both assaults, one upon the deceased and the other upon his daughter, took place outside the house and in the dark. The language of Esteban's complaint shows that instead of being ignorant of the circumstances under which the deceased met his death, he was fully advised of all the facts except the persons who committed the deed. Not being at the house at the time of the assault he could have ascertained these facts only from Leona. It is so inherently improbable that Leona told him all of these circumstances and yet failed to mention the fact that his acquaintances, her acquaintances, her father's acquaintances, their neighbors, the defendants, Sison and Billado, were the men who murdered the deceased. If her testimony as to the events that she claims occurred at the house are true, then, of course, she was sure who the murderers were. Being sure she could not have refrained from imparting the information to her brother-in-law, along with the other facts that his complaint shows he knew. When Leona was asked to explain why she sent her brother-in-law to Sagay to report her father's death, without telling him all she now claims she then knew, she gives this extraordinary answer:

"I stated before that he had no time to ask about what happened in the house. We had all we could do to assist my father who was dying."

But it must be noted that her father died about 4 o'clock and Esteban did not start for Sagay until some time later. Esteban and Leona were together during the whole night and for some time after the deceased died. If she had known the assailants, it would have been the most natural thing in the world for her to have given this information to her brother-in-law during this time.

That this atrocious murder was committed there is no question, but the sole testimony - that of Leona - upon which the judgment of the lower court rests, as to the identification of the defendants, is so inherently improbable and inconsistent with human experience that it can not form the basis of a conviction in this case.

For these reasons the judgment is reversed and the defendants acquitted, with costs de oficio.

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

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