

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CEFERINO BENITEZ AND JUAN LIPIA, DEFENDANTS AND APPELLANTS.*G.R. No. 5969. March 03, 1911*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance of the city of Manila, Hon. James C. Jenkins presiding, convicting the defendants of the crime of arson and sentencing each one of them to ten years and one day of presidio mayor, with the accessory penalties prescribed in article 57 of the Penal Code, to pay one-half the costs and to indemnify, jointly and severally, the Manila Cockpit Company in the sum of P80.

On the 6th day of August, 1909, there were two cockpits, one old and the other newly erected, situated in the municipality of Caloocan, Province of Rizal, but within the police limits of the city of Manila. Between 9.30 and 10 o'clock of the night of that day the new cockpit was feloniously set on fire.

The witness Bartolome Buenaventura testified that he knew both of the accused, Juan Lipia being his uncle, and that he had known them since he was a boy; that he knew the cockpits in question and their location; that on the 4th of August he was planting rice when Ceferino Benitez came and called him; that Ceferino Benitez asked him to go along with him to burn the new cockpit; that the witness replied that he was not disposed to go because he had his own business to attend to; that the next day, the 5th, the witness went over to Ceferino's house to get a bolo that he had bought from him, when Ceferino again spoke to him about burning the new cockpit; that the witness still objected and told him that he did not want to go with him; that on the 6th Ceferino waited for the witness on a certain road and spoke to him again, saying that he wanted him to go with him to burn the new cockpit that night; that the witness still refused to go because, as he alleged, it was not right, in the first place, and, in the second place, he was afraid of the owners of the new cockpit; that after being threatened by Ceferino he finally consented to go with him; that Ceferino also told him that he would be well paid for it; that on asking him how much they were to receive, he replied P500; that the witness asked, who is going to pay that sum, and he replied, Pedro Casimiro; that he went with them on the evening of the 6th; that prior to their going they agreed how the cockpit was to be burned; that they arrived at the cockpit between 9.30 and 10.30 o'clock; that the witness told the accused that it would be better to wait until they had the money before they burned the cockpit; that they replied that as soon as the cockpit started to burn there would be some one who would get the money from Juana, a widow, who was a shareholder in the cockpit; that the arrangement was to pour petroleum on the cockpit; that the two accused were to go on one side of the cockpit and the witness on the other; that the two accused carried a bottle of petroleum with them as, according to the plan, these two were to set fire to the same side of the cockpit; that they both carried matches; that they arrived at the outside of the fence of the cockpit and the witness told them that they should take one side and he would take the other, so that the fire could be started in two different places at once; that the two accused broke through the fence and threw the petroleum on the cockpit and touched a match to the oil that was running down; that when the fire was started by the accused the witness had not yet broken through the fence on his side; that, seeing the fire burning brightly, he took fear and ran away; that their

agreement was to meet at the house of Ceferino the next morning; that the cockpit was only partly destroyed; that he met the accused the next morning and asked them about the money they were to get for burning the cockpit; that the accused told him that they received only P20; that they showed him the money; that they gave him P10; that the witness later tried to get more money from the accused but did not succeed.

The witness Alejandro Nagua testified that he was acquainted with Ceferino Benitez and Juan Lipia, and had known them for some years prior to the 6th day of August, the date on which the cockpit in question was set on fire; that on the night of the said 6th of August he was out in the fields catching snipe; that he had as his companion Ambrosio Alipio; that he was hunting near where the cockpit was located; that the witness suddenly saw a light at the cockpit and after observing a moment and noting that it was on fire, he and his companion hurried toward the place; that when they arrived near the building they saw Ceferino Benitez and Juan Lipia going in the direction of Masambong, running.

The testimony of the last witness was corroborated by Ambrosio Alipio, his companion.

Juan Alipio testified that he was the caretaker of the cockpit on the night it was burnt and had been such for some time prior thereto; that he was awakened in the nighttime by the fire; that there was no lamp or other fire in or around the cockpit during that night; that the following morning they found the fence broken through and a petroleum bottle with shoestrings tied about it; that six stakes were pulled off the fence near the place where the fire was ignited and two near the water-closet.

Anastasia Martin, wife of Bartolome Buenaventura, testified that the accused Ceferino Benitez had told her that if her husband Bartolome would turn his back on that matter of the fire, Pedro Casimiro would pay him any amount he wanted; that she told her husband what Ceferino had said.

Lucio de Guzman, a witness for the prosecution, testified that he was a resident of the barrio of Balintawak, municipality of Caloocan, and by occupation a farmer; that he had known Juan Lipia and Ceferino Benitez since his boyhood; that before the fire he had a conversation with Ceferino Benitez in the presence of Juan Lipia; that they asked him to go with them to assist them in burning the cockpit and stated to him that they would get P500; that later they again invited him to assist them; that the witness declined to implicate himself in the crime.

On cross-examination this witness testified that he had been arrested for taking part in what he called the revolt of 1903 and sentenced to five years in Bilibid; and that the charge against him was bandolerismo.

In his opinion, forming the basis of his judgment of conviction, the learned trial court says:

"Eight or nine apparently credible witnesses testified for the prosecution. Their evidence fully and indubitably establishes the guilt of the two accused substantially as alleged. The court is satisfied to a reasonable certainty and beyond a reasonable doubt that the two accused are guilty substantially as alleged in the information and the court so finds.

"If the two witnesses who swore positively that on the night of the 6th of August, 1909, they were out snipe hunting, and saw the two accused coming from the direction of the cockpit alleged to have been fired by the accused, stated the truth, then the alleged defense falls to the ground, independent of the testimony of the several other credible witnesses for the prosecution. The court gives entire credence to the testimony of these two witnesses, the snipe hunters, and there was nothing in their demeanor or that of any other witness for the prosecution that indicates in any way that they were on the stand to tell anything but the truth. There are no indicia that they or either of them had any motive whatever to swear falsely against the accused."

In a conflict of testimony such as is presented in this case, this court must depend to a considerable extent upon the discernment of the judge who sits at the trial. A careful and discriminating trial judge has unequaled

advantages in determining the relative credibility of opposing witnesses. If he exercises his faculties with shrewdness and sagacity, he performs a most valuable work for the appellate court. We have considered this case in a very painstaking manner. We have searched the record for any evidence indicating that the learned trial court was mistaken in his judgment as to the relative credibility of the witnesses or that he had overlooked some fact or circumstance of weight or influence in passing upon the evidence, or that he had misinterpreted the significance of the facts as proved. We have been unable to find from the record that the learned trial court has fallen into such error; and, in accordance with the rule which we have so often laid down, namely, that this court will not interfere with the judgment of the trial court in passing upon the relative credibility of opposing witnesses unless there appears in the record some fact or circumstance of weight and influence which has been overlooked or its significance misinterpreted by him, we decline to interfere with the judgment of the trial court upon the facts in this case.

The penalty in this case is extremely severe. The injury done to the building was no more than P80. It was not a dwelling house, although a family happened to be living in it at the time. It is unmistakable, however, that the crime committed falls within the provisions of article 550, subdivision 2, and article 551, subdivision 1, Penal Code, and these articles fix for said crime the penalty of presidio mayor. There being present the aggravating circumstance of nocturnity and no extenuating circumstance, the penalty must be imposed in the maximum degree.

The penalty imposed by the learned trial court being within the law and the facts fully substantiating his conclusions, the judgment is affirmed, with costs against the appellants.

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

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