

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUAN ORACION AND NICOLAS LAMBINO, DEFENDANTS AND APPELLANTS.*G.R. No. 6330. March 06, 1911*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance of the Province of Pangasinan, Hon. Isidro Paredes presiding, convicting the appellants of murder and sentencing each of them to cadena perpetua, with the corresponding accessories, to the payment of an indemnity of P500 and the costs of the trial. The accused, Juan Oracion, died pending the appeal.

It appears from the evidence in this case that on or about the 13th day of January, 1910, an old man by the name of Juan Tamudong was riding on his banquilla on a river in the municipality of Dagupan, in the Province of Pangasinan, when he was met by the two accused in this case, Juan Oracion and Nicolas Lambino, riding in another banquilla, who invited him to enter their banquilla and go with them. He accepted their invitation and they immediately started across the river to a place where Carlos Moyano kept a house for the sale of tuba. Arriving there they met not only Carlos Moyano but also Victoriano Jaramillo (alias Atong). The accused invited Jaramillo to go with them, stating that they would find better tuba in another place. In response to their request, Jaramillo embarked with the other three in the same banquilla, and the four proceeded to a locality known as Aliuecuc. Arriving there, the four disembarked and started into the nipa forest which covered all of the locality thereabouts. Arriving in an out-of-the-way place, where they were entirely free from observation and discovery, each one of the accused suddenly seized an arm of Jaramillo, holding him tightly so that he could neither escape nor move effectively. In this condition Nicolas Lambino drew his bolo and struck Jaramillo three blows, which, in addition to causing other wounds, severed his head from his body. Thereupon the accused took the corpse and carried it to another place a little distance away and left it lying on the ground. They then quitted the place in the same manner in which they had come to it.

These facts were given in the testimony of Juan Tamudong, the only witness, aside from the accused themselves, who saw the commission of the crime. His testimony is strongly corroborated (a) by the testimony of Carlos Moyano, who, as a witness, stated that he saw the accused arrive there at his tuba-house in a banquilla with the witness Tamudong; that they found there the deceased Jaramillo; that they talked with him and invited him to go with them; that each one of them carried a bolo; (b) by the fact that the corpse of Jaramillo was found in the exact place indicated by the witness Tamudong, and that the wounds inflicted upon the body of the deceased were substantially as described by the witness; (c) by the fact of the identification of the body and the declaration of the wife of the deceased, who, testifying as a witness, stated that her husband left the house in the morning of the day in question, saying that he must go to the tuba store kept by Carlos Moyano, and that she had not since seen him alive.

The defense of the accused was an alibi. Upon this branch of the case the learned trial court says:

"The accused attempted to establish an alibi, but such alibi can not be admitted for the reason that not one of the witnesses of the accused told the truth. It is absurd to assert that there were typhoons and storms in any part of the municipality of Dagupan on the 13th day of January of this year. It is a greater absurdity for the accused to say that they did not know of any place called Aliuecuc, when this place, according to the proofs, is within the limits of the barrio of Anolid, of which barrio the accused, Juan Oracion, had been *teniente concejal* for four years. It is easy to instruct witnesses to testify alike, but the credibility of such witnesses does not depend upon their number or the coincidence of their statements."

A careful reading of the evidence leads us to the belief that the learned trial court properly weighed the evidence in regard to the alleged defense. Two witnesses whose credibility has not been impeached testified clearly and positively, the one that he saw the deceased go away with the accused in the direction of the place where his dead body was subsequently found, and saw them return without him; the other, that he actually saw the accused commit the murder. The testimony of the accused and their witnesses, tending to show that they were at a different place during all the hours of the day on which the crime was committed, produced a conflict in the testimony which had to be resolved by the trial court. He saw the witnesses in the act of testifying, carefully observed their manner and attitude; he weighed their testimony together with all the circumstances of the case and arrived at the conclusion that the testimony of the witnesses for the prosecution was entitled to credit. We find nothing in the record or in the facts and circumstances which go to make up the history of this case from which we can say that the conclusion of the learned trial court was wrong. If there were reason to do so, we would not hesitate a moment in so declaring. On the other hand, when there is absolutely nothing to indicate such error, we must just as strongly insist that we will not interfere with the conclusion reached.

The learned trial court qualified the crime as murder, using *alevosia* for that purpose. We are of the opinion that he was right. (U. S. vs. Feria, 2 Phil. Rep., 54; U. S. vs. Reyes, 11 Phil. Rep., 225; U. S. vs. De Leon, 1 Phil. Rep., 163; U. S. vs. Abeline, 1 Phil. Rep., 568; U. S. vs. Ricafor, 1 Phil. Rep., 173; U. S. vs. Santos, 2 Phil. Rep., 453; U. S. vs. Babasa, 2 Phil. Rep., 102; U. S. vs. De Silva, 14 Phil. Rep., 413.)

The judgment appealed from must be affirmed. (U. S. vs. Cabe, 1 Phil. Rep., 265; U. S. vs. Dacotan, 1 Phil. Rep., 669; U. S. vs. Cruz, 4 Phil. Rep., 438; U. S. vs. De Leon, 1 Phil. Rep., 163.) So ordered.

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

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