

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SANTIAGO LASADA AND MACARIO LASADA, DEFENDANTS AND APPELLANTS.

G.R. No. 6742. January 26, 1912

Ponente: TORRES, J.

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TORRES, J.:

This appeal was taken by the two defendants herein, surnamed Lasada, from a judgment of conviction rendered by the Honorable Judge Ramon Avanceña.

One day in 1906, a Chinaman named Pedro So Priengco filed a complaint against Agapito Lasada for having inflicted upon him a wound in his right side. The accused was sentenced to twenty-five days of arresto in the municipal jail, but, instead of serving his sentence therein, he passed the time in the house of the municipal president. The said president disregarded the protest made to him by So Priengco, who objected to the said Agapito Lasada serving his sentence in this manner, so the Chinaman endeavored to bring his case before the provincial officials.

At a late hour of the evening of March 80, 1908, as Espiridion Moldes was emerging from a wood in the barrio of Tarragona, pueblo of Abuyog, Leyte, at a point near the Balocaue River, for the purpose of gathering coconuts, he met one Benito Resardo who was there cutting bamboo. After conversing a while, the two agreed to return together to the inhabited portion of the barrio, which they did. Upon reaching the Cantaguigui Creek they stopped to wash their feet, whereupon Pedro So Priengco came up, exchanged a few words with them and, without stopping, continued on his way across the creek. After a little while, they too went on and crossed the said Balocaue River by a footbridge, and upon reaching the opposite bank they heard a noise as if blows were being struck upon a human body and, immediately thereafter, the screams of a Chinaman: "Don't kill me." Moldes and Resardo thereupon immediately hid among some cogon grass near-by and from their hiding place saw, at a distance of about 12 feet from them, Agapito Lasada holding the Chinaman, Pedro So Priengco, by the hair which he had wrapped around his hands. Santiago Lasada and Macario Lasada were striking the said Chinaman with their sticks, and soon afterwards Pannlo Closa struck him in the side with a cutting weapon. At this moment the Chinaman was stretched face-down on the ground and Agapito from time to time jerked the Chinaman's hair, saying: "Now you won't complain again, you quarrelsome Chinaman." Thereafter the witnesses heard Macario Lasada tell Santiago and Panfilo to make sure that nobody was in the neighborhood so that they might kill the Chinaman and thus prevent his denouncing the crime they had committed. Thereupon the witnesses became afraid and concealed themselves in a dense part of the wood until nightfall, when they came out on to the trail and continued their journey. Both agreed not to mention the occurrence, for fear of the vengeance of the accused, although five days afterwards Moldes, being affected by the tears of the deceased's daughter Julia, related to her what he had seen.

A short while after the commission of the crime, at nighttime, and not far from the place where it occurred, Lope Margate, who was traveling along the highway in the direction of the barrio of Tarragona, saw four persons at a distance of about 15 feet ahead of him. Among them he recognized Agapito Lasada, Santiago Lasada, and Panfilo

Closa, and he heard Santiago Lasada say to one of his companions: "Where did you put the bolo?" to which the person questioned replied: "I put the point of the blade into the ground and made the hand grasp the hilt of the bolo." After this, the four men, one of whom was not recognized by the witness, went on and entered a house.

By reason of the foregoing facts, the provincial fiscal, on December 9, 1908, filed a complaint with the Court of First Instance of Leyte, charging Agapito Lasada, Santiago Lasada, and Panfilo Closa with the crime of murder. Agapito Lasada was tried separately and was sentenced by final judgment to the penalty of seventeen years four months and one day of reclusion temporal, to the accessory penalties, to indemnify the family of the deceased in the sum of P1,000, and to the payment of one-fourth of the costs, which judgment was affirmed by the Supreme Court.[1] Panfilo Closa escaped, and therefore this case was only prosecuted against Macario Lasada and Santiago Lasada. As a result of the trial, the court rendered judgment on January 6th of this year, sentencing each of them to the penalty of seventeen years four months and one day of reclusion temporal, to the accessory penalties, to the joint payment of an indemnity of P1,000 to the heirs of the deceased, and to pay one-half of the costs of the trial. From this judgment the defendants appealed.

The evidence fully proves that at dusk on March 30, 1908, while the Chinaman, Pedro So Priengco, was traveling along an old road or trail from the Balocaue River toward the barrio of Tarragona, in the pueblo of Abuyog, Leyte, he was met by the brothers Agapito, Santiago, and Macario Lasada, and one Panfilo Closa, the first three of whom were provided with clubs or sticks, and the latter with a bolo or knife, and that he was immediately assaulted by these four men who inflicted upon him several severe bruises or injuries in different parts of his body, especially on his forehead, and a wound in his right side. The Chinaman's forehead was crushed in by a heavy blow and the curandero or mediquillo who made a post-mortem examination of the body of the deceased on the day following the assault, stated that the injured man had died from the effects of this injury on his forehead and not from the wound inflicted in his right side, so that the violent death of the Chinaman, So Priengco, not partaking of the nature of the crime of murder, only constitutes that of homicide, provided for and punished by article 404 of the Penal Code, inasmuch as none of the qualifying circumstances, which require the imposition of the severer penalty prescribed in article 403, were present.

The two eyewitnesses, Espiridion Moldes and Benito Resardo, attracted from the bank of the Balocaue River by the cries of the victim and the sound of the blows inflicted upon him by his assailants, approached the scene of the occurrence. While hidden in the tall brush on the side of the said trail, at a distance of about 4 brazas, they saw the last blows struck, and also saw Panfilo Closa strike the victim in the right side with a knife or bolo while he lay stretched upon the ground; but they were unable to see how the assault commenced, for, as we have said, they approached only when they heard the cries of the deceased and the sound of the blows; and although one of the assailants caught the Chinaman by the hair while he lay upon the ground, and from time to time, by pulling his hair, jerked up the victim's head, saying: "Now you won't complain again, you quarrelsome Chinaman," and notwithstanding that the assailants were four in number, it was not shown, even with all these details, that the crime was committed with alevosia, as there is no proof that the deed was perpetrated with treachery by the guilty parties employing ways and means which might have directly and particularly insured the consummation of the crime without any risk to themselves such as could have arisen from any defense that the victim might have offered; but there was attendant the aggravating circumstance of superiority, derived from the number of the assailants and the simultaneousness of the attack, and while this circumstance of course increases the responsibility contracted and requires the imposition of a severer penalty, it does not raise the crime to murder.

Neither would it be proper to hold that the circumstance of premeditation attended the killing of So Priengco, for it was not proved at the trial that his assailants had planned the crime after due reflection and with the deliberate intention of carrying it into effect in the manner in which they did. It is unquestionable that all the accused, by

common accord, took part in the perpetration of the crime and cooperated therein with unity of purpose and criminal intention, but this circumstance does not constitute that premeditation which is manifested by ostensible and preparatory acts and which qualifies the crime of murder, because their determination or resolution, made upon mature reflection prior to the commission of the crime, was not manifested by outward acts; consequently, for the reasons just stated, the criminal act in question only constitutes the crime of homicide.

The two defendants, Macario and Santiago Lasada, pleaded not guilty, but notwithstanding their denial and exculpatory allegations, which were not duly substantiated at the trial, the record furnishes decisive and conclusive proof of their guilt as coprincipals with others, by direct participation, and they are fully convicted of the crime under prosecution, for, taking into consideration the value and weight of the testimony of the two eyewitnesses to the crime, corroborated as it is by that of the witness Lope Margate, the guilt of the said accused, jointly with the others before mentioned, is completely established.

The witness Lope Margate testified that he saw the defendants, Agapito and Santiago Lasada, Panfilo Closa, and another person, unknown to him, who must have been Macario Lasada, at about 8 o'clock on the evening of the crime, some hours after its commission; that said persons were gathered together and engaged in conversation on one side of the road, not far from the scene of the assault; that he heard Santiago Lasada ask one of his companions where he had put the bolo (evidently the one used by Closa in wounding the Chinaman in the right side); that the person interrogated, who must have been the said Closa, replied that he had stuck the blade of the bolo into the ground and caused the hand to appear to be holding the hilt of the weapon. This detail was corroborated on the finding of the body among some young coconut trees, for the right hand was apparently holding a bolo, the blade of which was stuck in the ground. This was testified to by Julia So Priengco, a daughter of the deceased, who said that she saw the weapon in that position when she went with the local authorities to the place where the body was found. The answer given by the above-mentioned accused undoubtedly refers to the body of the Chinaman which his slayers had left lying among the coconut trees; and it is unquestionable that the conversation overheard by Lope Margate, on his approaching them on the road in the evening of March 30, a short while after the crime, referred to the death of the deceased Chinaman. This witness added that when the four men started to go away he noticed that their trousers made a noise as if they were wet, and that, on his arrival at Santiago's house, he saw by the light inside that their trousers were actually wet.

It seems strange that, some hours after the murder, as Lope Margate followed the road traveled by the Chinaman and on which he was killed, this witness did not see So Priengco's body in the middle of the trail, when at a short distance from the place he found the victim's four assailants assembled and engaged in conversation. But the disappearance of the Chinaman's body from the place where he was assaulted and killed is explained elsewhere in the record by the testimony of the daughter of the deceased, Julia, from which it is concluded that the perpetrators of the crime dragged the corpse to the other side of the Sisibaran estero, a tributary of the Balocaue River. This witness testified that her father was not killed at the place where his body was found, because the corpse, even to the hair of the head, was completely wet; that the shirt and trousers worn by the deceased were covered with mud, and that in the place where it was found by the authorities no blood was seen on the ground, while many blood stains and several human footprints were found on the bank of the said estero. It is therefore to be presumed that the body was removed from the trail where the assault Occurred to the place among the coconut trees where it was found, by dragging it across the aforementioned Sisibaran estero, and this explains why the trousers of the four men seen by Margate that night were wet.

After due consideration of the evidence adduced by the defense, together with the errors assigned to the judgment appealed from, the record is found to disclose no reasonable and just grounds for finding that the trial judge decided the case unjustly and without due regard for the evidence, or that he erred in finding that the material

facts constituted the crime of homicide or, that the defendants Santiago and Macario Lasada, were two of the four men who assaulted and killed the Chinaman, So Priengco; or that the evidence introduced by the defense did not outweigh that adduced by the prosecution with respect to the defendants' guilt.

In fact, the divergent, when not contradictory and indefinite, testimony of the witnesses for the defense was unable positively to establish the alibi set up by the defendants, for the record shows it to have been fully proven that they were present with two other men, and participated in the crime.

Notwithstanding the exertions of the defense to prove that the two eyewitnesses to the crime could not have been present at the place of its perpetration, for the reason that they were elsewhere at the time, and that the said two witnesses, as also the third who heard the conversation of the criminals near the place where the Chinaman was assaulted, were adroitly coached, prepared with instructions and paid P200, yet the testimony of several others, offered in an attempt to prove these allegations, failed to establish the same or to invalidate the proofs that support the charge, reenforced as they are by the circumstantial evidence that corroborates the testimony offered by the prosecution. Such was the opinion of the trial judge, who held that the alleged facts related by certain witnesses of the defense were unreasonable and incredible, and no legal or just reason has been presented that would warrant a conclusion other than that arrived at in the judgment appealed from.

The circumstantial evidence derived from the perfectly proven facts that the body of the deceased, including the hair of his head, was found entirely wet, and the clothes he wore were covered with mud, is conclusive and indisputable. These details coincide with the circumstance that the trousers which were worn by the defendants and their two companions on the evening of the crime when Lope Margate met them on the road were wet, that the right hand of the dead man was apparently holding the hilt of the bolo, the blade of which was stuck in the ground—a detail related by the said Margate—and that at the place where the body was discovered no drops nor stains of blood were found, but that such traces were found on the bank of the Sisibiran estero, a branch of the Balocaue River, where, besides drops of blood, several human footprints were observed. From these circumstances it is concluded that the Chinaman was killed near the Balocaue River and on the trail leading to the barrio of Tarragona, and that his body was afterwards removed therefrom by being dragged across to and above the opposite bank of the Sisibiran estero, where it was afterwards found.

These details and circumstantial data and the fact that upon the discovery of the body it presented various contusions, one of them upon the forehead, which was crushed in by the blow, and a wound in the right side, corroborate the truth of the facts seen and related by the witnesses for the prosecution and prove the veracity of their testimony while at the same time they completely destroy the evidence of the defense, which was unsuccessful in shaking that of the prosecution.

From a careful study of this case, we infer that the sole determining motive of the crime was the revenge which the Lasada brothers, aided by Closa, and actuated by hatred and resentment, wreaked upon the Chinaman, So Priengco. The said brothers, especially Agapito Lasada, were at enmity with the Chinaman, the latter because he was sentenced to twenty-five days' imprisonment as the result of a quarrel which he and his brother Santiago had had with the said Chinaman, and in which the latter was wounded. As the aggrieved party saw that the prisoner was not serving his sentence in the municipal jail, but was living in the house of the presidente, he complained to the latter about it, but as this official paid no attention to him, he resolved to appeal to the provincial authorities and was endeavoring to have the matter brought up before them on one of the days following the 30th of March, in the evening of which he was killed. These occurrences furnish a logical explanation as to why the defendants attempted the life of the Chinaman, for the wounding of whom Agapito Lasada was sentenced; and they killed him not only through hatred and revenge, but also perhaps in order to prevent So Priengco from laying a complaint before the provincial authorities to the effect that Agapito Lasada served his sentence in the house of

the presidente instead of in the jail.

From the foregoing relation of facts, the credibility of the testimony of the witnesses for the prosecution becomes more evident and unquestionable, and with all the more reason because the witness for the prosecution, Esperidion Moldes, denied that at the hour of the crime he was fishing in the sea, or was in the habit of doing so, or that he was at the house of Mamerto Mundala for the purpose of borrowing a banca, the latter having no house in Tarragona. The other witness, Benito Resardo, also denied having been in the house of Gaudencio Belleza on the afternoon of the crime. Moreover, these two witnesses for the prosecution, Moldes and Resardo, and the third witness, Lope Margate, likewise denied that they had been, the first two, in the house of Julia So Priengco to receive instructions, for reward of P200, as to how they should testify against the defendants, and Margate denied being in the store of a Chinaman, Ong Guico, for the same purpose. Both the latter and Julia So Priengco, as well as the other Chinese said to have been present at the interview and conversation, denied that they were so present, and they contradicted the witnesses for the defense and testified that one of the latter, Tan Quico, was unfriendly to them because he had been sued for a certain sum of money by Dy Ohgco, one of those said to have been present at the said interview, and because the said Tan Quico had been rejected by Felisa So Priengco, a sister of Julia and a daughter of the deceased. Finally, the said Dy Ongco testified that he did not even know the witness Lope Margate, who was alleged to have been tampered with.

The system of defense adopted by the counsel for the defendants is clever and ingenious, for, besides attempting to prove an alibi, he also endeavored to prove that the eyewitnesses to the assault were likewise elsewhere at the time and therefore could not have seen what occurred. This defense failed, since the testimony and the circumstantial evidence, taken together as a whole and duly weighed in accordance with the rules of sound judgment, produce the completest conviction of the defendants' guilt.

In the perpetration of the homicide under prosecution, consideration must be given to the presence of the aggravating circumstances 9 and 15 of article 10 of the Penal Code, as the crime was committed in an uninhabited place and with abuse of superiority. There being no extenuating circumstance to offset them, the penalty of reclusion temporal provided by article 404 of the said code, must be imposed upon the defendants in the maximum degree, as was done in the judgment appealed from.

For the foregoing reasons, whereby the errors attributed to the trial judge have been refuted, it is our opinion that the judgment appealed from should be, and is hereby, affirmed; provided, however, that Santiago and Macario Lasada shall be sentenced, jointly and severally with their accomplice, Agapito Lasada, to pay an indemnity of P1,000 to the heirs of the deceased, without subsidiary imprisonment, in accordance with article 51 of the Penal Code. Each of the defendants shall pay one-half of the costs of both instances. So ordered.

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

[1] 18 Phil. Rep., 90.

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