

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RAMONA R. EVANGELISTA, DEFENDANT AND APPELLANT.

G.R. No. 8132. March 25, 1913

Ponente: TRENT, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-8132/>

TRENT, J.:

The appellant, Ramona R. Evangelista, was convicted in the Court of First Instance of Manila of the crime of arson and was sentenced, under article 557, paragraph 4, of the Penal Code, to three years and seven months of presidio correccional, and to pay the costs of the action.

Ramona R. Evangelista was the tenant of a portion of a building situated on Carriedo Street, Manila, and used the ground floor for a store where were sold hats and various other articles, while the upper floor was used as living quarters for herself and a number of student boarders. On June 2, 1912, at 7.01 p. m., the fire department answered an alarm of fire which proved to be in that part of the building occupied by the appellant. At the time the firemen arrived, dense black smoke was issuing from under the eaves of the building, and the fumes of burning coal oil were plainly discernible. The fire originated in the second floor of the building in the appellant's living quarters. Before the fire was finally extinguished, the building was damaged, according to the testimony of record, in the amount of P10,562.

The acting chief of the fire department testified that the fire could not have been burning more than three or four minutes when he arrived. He declared positively that the fire could not have gained the headway it had or caused the damage it did if coal oil had not been used, and that the whole place appeared to have been saturated with coal oil.

Three insurance policies taken out by the appellant were introduced by the prosecution. One for P1,000 was simply a renewal of a former policy, the renewal dating from December 20, 1911. Another, written by the same company, in the amount of P5,000, was dated May 22, 1912. The third, in another company, was dated May 21, 1912, and was also for P5,000. Although the policy issued May 22 contained a condition that policies with other companies must be declared and inserted on its face, no mention appears of the one issued the preceding day.

An agent of the company which issued the insurance policy for P5,000 dated the 21st of May testified that he went to the store and made an inspection of the contents, and at that time there was not over P2,000 or P3,000 worth of goods, including the wardrobes; but as the appellant stated that there were more goods coming to the store very soon, he agreed to make the policy for P5,000.

At the date of the fire the appellant was moving her store and personal effects to No. 329 Ronquillo. The administrator of the Tuason estate, of which the burned building was a part, testified that the appellant owed the estate P1,392 for rent; that he had given her notice a month or two before the fire occurred to move about June; that no date was fixed by him but the appellant informed him that she would leave the house about June.

Jose Bello testified that he had been employed by the appellant as a clerk in the store up to the time of the fire. He

testified that he was working in the store on the morning of June 2; that the appellant instructed him to put a number of valuable hats in a box, as she was going to send them to a friend to sell; that he did as he was instructed, and that the box was removed by a servant to the house at 329 Ronquillo. Witness stated that these were the only valuable hats left in the store; that the trunks of the students who were boarding with the appellant had been removed to the new place previous to June 2, as well as furniture and cooking utensils; and that on Sunday some more trunks and other things were taken to the new place. He testified that no new stock of goods had been brought to the store after the insurance policies dated May 21 and 22 had been issued.

Detective Perceival stated that on the morning after the fire he found in the living quarters upstairs an iron bed, a wardrobe, a box, and an old bed, all practically burned up; an old leather box containing some papers of no importance; and one or two pieces of clothing. The inside of the wardrobe was not burned and there was nothing in it.

The defendant testified that the goods she had removed from the house were those which she sold to Americans at the end of every month; that she kept her insurance policies at her aunt's house.

Juan Evangelista, son of the appellant, testified that he was a resident of 825 (329) Ronquillo; that formerly he resided at 325 Carriedo; that he moved from the latter place just previous to the fire on June 2; that all the boarders and the servants had also moved, leaving only his father and mother at the place on Carriedo.

The acting chief of the fire department testified that on May 31, at 6.81 a. m. an alarm was turned in for a fire which proved to be in the rear of a piano store adjacent to that part of the building occupied by the appellant. The fire burned a hole through a door which opened into a court or passageway to which access could also be had through a similar door on the premises of the appellant. The fire chief directed his assistant to look for evidences of incendiarism, and shortly after his assistant came back saying: "Chief, here are four bottles with some coal oil in them yet." The four bottles were placed upon a piano and the case turned over to the Secret Service Bureau. Exception was taken to the remark made to the fire chief by his assistant as being hearsay. This exception was overruled and counsel for the appellant assigns this as error. As the chief's assistant also testified in this case, and stated that he found four pint bottles with a few drops of kerosene in them just back of the door which was burned by the fire, the remark in question was unnecessary to establish the fact that the assistant chief, acting upon the instructions received from his superior, found four pint bottles with kerosene in them, and that he brought these bottles to the fire chief, who placed them on a piano and turned the case over to the police department. The error in admitting the remark, if error at all, was harmless and did not prejudice the rights of the defendant.

Teodorico Fungo, who was the servant of the appellant at the time of this first fire, testified that early on that morning, while boiling some milk, the appellant ordered him to go downstairs and light some papers in a box standing in the court just between the appellant's door and the door to the piano store. Witness refused to do so, and then saw the appellant go downstairs with a bottle of petroleum and saturate the papers in the box with the petroleum, after which she came back upstairs and sent him out to purchase four centavos worth of petroleum. Upon his return she took the petroleum from him and went downstairs. Pretty soon he heard people downstairs crying, "Fire, fire," and then he heard the appellant saying the same thing to her son. Witness then wrapped up his things and left the house. The testimony of this witness was objected to on the ground that at the time of the trial he was living at the house of a member of the city secret-service force who assisted in the investigation of the origin of the fire occurring on June 2, without paying for his accommodations. This witness, however, testified that he was washing dishes at this house, and evidently he was acting as a servant. In any event, this fact would not affect his competency as a witness. It was established by indisputable evidence that a fire occurred as stated above on May 31, and that unmistakable evidences of incendiarism were found by the fire department.

The defense objected to the introduction of all evidence relative to the fire of May 31 as incompetent and not the fire charged in the information. While it was not the fire charged in the information, and does not by any means amount to direct evidence against the accused, it was competent to prove the intent of the accused in setting the fire which was charged in the information.

In *People vs. Shainwold* (51 Cal., 468), the court said:

"On a trial for arson, the prosecution may prove that the prisoner had attempted to set fire to the house on a day previous to the burning alleged in the indictment, for the purpose of showing the intent of the prisoner in subsequently setting fire to the house."

In *Knights vs. State* (58 Neb., 225; 78 N. W., 508), the court said: "Where a person is charged with the commission of a specific crime, testimony may be received of other similar acts, committed about the same time, for the purpose only of establishing the criminal intent of the accused."

And in *People vs. Lattimore* (86 Cal., 403; 24 Pac, 1091), a similar ruling was made, when the court said that "evidence tending to show that defendant started the former fire was admissible to prove intent." This principle has been applied by the courts of many jurisdictions. (3 Cyc, 1007; 1 Wigmore on Evidence, §§ 303, 354.) There was no error in receiving the evidence as to the fire occurring on May 31 to show intent.

The accused appeared at the scene of the fire on the morning of June 3, and Detective Perceival, who had been detailed to make an investigation of the fire, after a few minutes conversation with her, sent her to the police station in company with the witness Jose Bello. She remained at the police station all day until about 8 o'clock that evening, when she confessed to having started the fire, assigning as her reason that she was heavily in debt and the only way she could see to get out of debt was to raise her insurance and then set fire to the place, Perceival testified that the appellant gave her confession in detail. It is not denied that this confession was made. But counsel assigns as error on this appeal that it should not have been admitted because it was involuntary by reason of force, intimidation, etc., used in extorting it.

It is admitted that the accused was detained at the police station from about 10 o'clock in the morning until 3 o'clock at night; that from the time she arrived until after office hours at 5.30 in the evening she was held in the waiting room, which was furnished with "hard-seated chairs;" that she was then taken into the office of the chief of the secret service and remained there until 8 o'clock, when she made her confession; that during the day she was not allowed to talk to any member of her family; and that the detective told her she "had better tell the truth." The defendant herself further testified that Perceival and Dizon (another detective) were the only persons who talked to her during the afternoon; that they both told her to admit that she had started the fire, and said if she would do so she would only have to pay a fine and would then be set free; that if she did not admit having started the fire, she would have to go to jail for twenty years; that she did not have anything to eat; and that about 8 o'clock that evening she could hardly remember anything as she was shaking and trembling and did not know what she was doing. On cross-examination she admitted that she was offered food at noon and the evening also, but said that she did not eat any of it. She further stated that Perceival was sitting by her side a considerable portion of the afternoon and nudging her and saying: "Tell the truth; tell the truth." Perceival and Dizon testified in rebuttal that the defendant did eat while she was detained at the police station; that Perceival did not nudge her or mistreat her in any way, and that no promises of leniency or threats of imprisonment were made to her. The trial court, who could observe the witnesses and their demeanor and bearing on the stand, was in a much better position to estimate the value of this contradictory testimony than are we. But another circumstance is before us which greatly weakens the testimony of the defendant on this point. Perceival testified that immediately upon her confession of guilt he sent for the chief of the secret service; that while the chief was there the then attorney of the defendant also came in; that he asked her in the presence of these two gentlemen if anything had been done to her

and, if so, to tell them about it; and finally that her attorney himself asked her this question and she replied, "no; that he (the detective) had treated her as though he was her son." Under these circumstances, the lower court did not credit her statements in these respects, and we cannot say that there was error in so doing.

Counsel on this appeal, however, strongly insists that the facts that she was sitting on a "hard-seated chair" all day and that at several times during the day Perceival came to her and talked to her about the evidence he had against her and told her "she had better tell the truth" should be considered as sufficient to render the confession involuntary. So far as her being detained in the waiting room which was furnished with "hardseated chairs" is concerned, we fail to perceive any degree of torture or mistreatment. It is true that she was deprived of her liberty and was held as a suspicious person, which was not at all a pleasant experience. But her treatment in this respect was certainly not more rigorous than that to which all prisoners must submit. The positive statement is accredited to the defendant that she was well treated by the detective. It is not denied that she made this statement, nor that it was made in the presence of her then attorney. The latter could certainly have testified to the truth or falsity of this statement, and as to her physical condition at the time it was made. But he was not called as a witness. Detective Perceival testified on this point that she knew what she was saying in making her confession, but that she appeared to be ashamed and broken up, and that she cried and begged for mercy from her lawyer after he arrived.

Nor was the admonition of Perceival that she had better tell the truth in the nature of a threat. In *Huffman vs. State* (130 Ala., 89; 30 So., 394), it was held that the facts that the accused was urged to tell the truth and the statement was made to him that it would be better for him to do so, did not render the confession involuntary. In *State vs. Leuth* (5 Ohio C. C., 94), it was held that the bare exhortation by the police captain to the accused that he had better tell the truth did not render a confession involuntary, since this was not an influence exerted toward an untruth. The confession of a prisoner, charged with receiving stolen goods, to a private person was held voluntary although made after the statement to the latter that it would be better for the accused to tell the truth. (*Lucasey vs. U. S.*, Fed. Cas., 8588a.) In *Roszczyńska vs. State* (125 Wis., 414; 104 N. W., 113), it was held that statements made by an officer to the accused, "Why don't you tell the truth?" and "You better tell the truth about this matter. They have all identified you," were not enough to render inculpatory statements involuntary. The great weight of authority is to the same effect. (*Kelly vs. State*, 72 Ala., 244; *Hardy vs. U. S.* 3 App. D. C., 35; *State vs. Kornstett*, 62 Kan., 221; 61 Pac., 805; *State vs. Staley*, 14 Minn., 75; *State vs. Anderson*, 96 Mo., 241; 9 S. W., 636.) We think that under all the circumstances, the confession was properly admitted.

There was some attempt made to establish an alibi for the defendant. The defendant gave a detailed statement of her whereabouts from the time she left her house at 4 o'clock on the afternoon of the fire until the fire occurred. According to her statement she went to see a friend in Calle G. Tuason, where she stayed about an hour; from there she went to buy some cloth at a store on Calle San Pedro, where she stayed a little more than half an hour; and from there she went to her son's house where she stayed a little more than half an hour, and was on her way home when she saw the fire engines at work at the scene of the fire. To corroborate these statements, Dimas Lampano was called as a witness and testified that he lived on Calle G. Tuason; that he had known the defendant for about fourteen years; that he did not remember the Sunday her house was burned; that the defendant called on him the second day of the month about half past 4 or 5 o'clock; that he did not know what day of the week it was, but later he stated that it was Sunday; that he remembered this visit because on Monday he received a letter from Vitas for some work to be done there. Felisa del Rosario testified that she lived on Calle San Pedro; that she had known the defendant about four years; that she did not remember the day the defendant's house was burned; that she remembered that the defendant had visited her on a Sunday afternoon, that she could not remember how long ago that was, but that she came to the house about 5 or 5.30 in the afternoon to buy some cloth; that it was on the 2d of June that defendant came to see her; that she never came there again; that she could not say when the defendant came to her house before that; and that she remembered the defendant came that day because her

children fell down the staircase. Juan Evangelista testified that his mother came to his house between 6 and 7 o'clock in the evening; and that about three or four minutes after his mother left he heard the fire engines passing by.

It will be noted that although both Lampano and Felisa del Rosario first stated that they did not remember the day on which the defendant visited them, they concluded by not only fixing the day but the hour when she called on them; that the hour fixed by them when the defendant paid her respective visits almost exactly dovetailed into the testimony of the defendant herself in these respects; and that both of these witnesses were enabled to fix the day and the hour of the defendant's visits to them, not by any significance attached to the visit itself but by incidents, entirely unconnected with the defendant, and apparently very insignificant in themselves. Such testimony would be subject to great suspicion under any circumstances. In considering the testimony of Juan Evangelista it must be remembered that he was the son of the defendant and was very much interested in establishing the innocence of his mother. It is the only evidence in the record counteracting the case made by the prosecution. As opposed to it we have the formidable array of circumstantial evidence tending strongly to show intent and motive of the defendant for setting fire to the house; the fact that the fire originated in the living quarters of the accused; that it was, by the testimony of the acting chief of the fire department and his assistant, of incendiary origin; and finally, the extrajudicial confession of the accused herself that she started the fire. This circumstantial evidence, supported by the confession of the accused, is, we think, conclusive of her guilt.

Upon the evidence presented it does not appear that the house was inhabited at the time the fire occurred, or that there were persons on the premises as charged in the information; for it appears that all the persons living there had left the place for another residence although the defendant says she was going back to the place to sleep that night. Under these circumstances the lower court found the appellant guilty under article 557 of the Penal Code, which reads:

"Art. 557. Any person who shall set fire to anything not falling within the terms of the preceding articles shall suffer:

* * * * *

"4. The penalty of presidio correccional in its medium and maximum degrees, if the damage shall exceed 6,250 pesetas,"

In commenting upon this article of the code, Viada (vol. 3, p. 607) says that this article must be considered as supplementary to and the complement of the preceding articles, the provisions of which are applicable to those cases of arson which are not specially included or provided for in them. This is the only function it can have, as it specifically states that it is applicable to cases "not falling within the terms of the preceding articles." Its provisions are general and are not designed to take the place of specific penalties provided in the chapter of which it forms a part.

The building in this case, although not inhabited, was standing in a populated place, and the damage to it exceeded 6,250 pesetas. These two circumstances are exactly the requirements of article 551, paragraph 2, and the penalty provided is presidio mayor. The aggravating circumstance or nocturnity being present in the commission of this crime, the penalty should be imposed in its maximum degree. The appellant in this case being a woman, however, the punishment should be changed to prision mayor in accordance with article 95 of the Code. The penalty imposed by the trial court is therefore set aside, and the appellant is hereby sentenced to ten years and one day of prision mayor, together with the accessory penalties provided by law; to indemnify the owner of the building in the sum of P10,562; and to the payment of the costs of the cause.

Arellano, C. J., Torres and Moreland, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.