

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JORGE MANANQUIL ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 8413. August 14, 1913*

Ponente: TORRES, J.

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This appeal was raised by the five defendants, Mananquil, Balingit, Guevara, Romero, and Policarpio, from the judgment of September 7, 1912, whereby the Honorable Julio Llorente, judge, sentenced Jorge Mananquil to the penalty of fourteen years eight months and one day of cadena temporal, and Pablo Balingit, Severino Guevara, Sixto Romero, and Juan Policarpio each to eight years eleven months and eleven days of presidio mayor, to the accessory penalties, to return the articles taken but not recovered, or, in lieu thereof, to pay jointly and severally to the offended parties an indemnity in the amount of P24, to return the recovered articles to Alfonsa Nidera, and each to pay one-sixth of the costs.

On the night of May 5, 1912, the five defendants, together with Serapio Enriquez, Macario Cabulu, and other unknown parties, four of whom were provided with bolos and the rest with clubs, assaulted the house of the aged Apolonio Nidera, situated in the pueblo of Tarlac, province of the same name. Mananquil, Balingit, and Guevara went into the house, while the others patrolled and kept watch in its vicinity, and succeeded by force and intimidation in seizing the sum of P1 in cash and various articles of wearing apparel and other effects belonging to Alfonsa Nidera, a niece of the master of the house. They also took away from the latter P6.50, after having maltreated him and his wife whom, they struck with the sides of their bolos. The robbers afterwards left the place with the money and effects they had taken. Some days subsequent to this occurrence, and as a result of an investigation made, the Constabulary succeeded in having the wife of Pablo Balingit get, with the information furnished by her husband, several of the articles of clothing stolen, including a lady's shell comb belonging to Alfonsa Nidera, all of which were hidden in the interior of a plot of land covered with a growth of reeds, situated at a short distance from Balingit's house; and not long afterwards the Constabulary corporal, Florentino Castañeda, found in the possession of Felix Mananquil, a son of the defendant Jorge Mananquil, a ring which was also identified by the said Alfonsa Nidera as hers and a part of the articles stolen.

For the foregoing reasons, after the proper preliminary examination had been made, a complaint was filed by the provincial fiscal in the Court of First Instance of Tarlac, on August 1, 1912, charging the defendants and Serapio Enriquez with the crime of robbery en cuadrilla, and this cause being instituted, from which Serapio Enriquez was afterwards excluded, the judgment aforementioned was rendered.

From the facts above related, fully proved in the present case, sufficient evidence has been adduced to show that the crime of robbery en cuadrilla was committed by more than three armed persons on the night of May 5, 1912, in the house of Apolonio Nidera, situated in the pueblo of Tarlac, province of the same name, which crime is provided for and punished by articles 502 and 503, No. 5, in connection with articles 504 and 505, of the Penal Code.

Upon the arrest and arraignment of Jorge Mananquil, Pablo Balingit, Severino Guevara, Sixto Romero, and Juan Policarpio, as the suspected perpetrators, together with others of the said crime, they pleaded not guilty; but, notwithstanding their denial, the record discloses satisfactory and convincing proof that, on the night aforementioned, they did assault the house of the aged Apolonio Nidera and, while the majority of the robbers surrounded the house keeping watch, Jorge Mananquil, Pablo Balingit and Severino Guevara entered it and, after having maltreated the owner of the house, the said Apolonio, his wife named Cornelia, and their niece, Alfonsa Nidera, striking them with the flats of their bolos, seized some clothes and other effects, including the sum of P1 belonging to the woman Alfonsa, and P6.50, which Apolonio Nidera had; and that immediately thereafter they left the premises and repaired to the interior of an adjacent wood where they divided among themselves what they had taken.

During the commission of the robbery Apolonio and Alfonsa Nidera recognized among the robbers Jorge Mananquil who, it was afterwards ascertained from his codefendants themselves, was the leader of the band. Mananquil stated on the witness stand that his coaccused were in fact in his house on the night in question for the purpose of serenading him and after supper invited him to join in a carousal; that he refused to go and remained at home; that he did not know whether they afterwards committed the robbery, and that if they did he took no part therein.

Macario Cabalu and Serapio Enriquez, two men who were in the company of the robbers when the crime was committed and who, upon their exclusion from the complaint, testified as witnesses, corroborated the charges made in the information and swore that the five defendants committed the said robbery under the direction of their leader, Jorge Mananquil. They further testified that it was Mananquil, Balingit, and Guevara who entered the house to perpetrate the robbery, while the others and they, the witnesses, remained as sentries in the vicinity of the building.

The other defendants, Sixto Romero, Severino Guevara, Juan Policarpio, and Pablo Balingit, corroborated the testimony given by Jorge Mananquil to the effect that they had met in the latter's house and, after having supper therein, all went to the offended parties' house to commit the robbery under prosecution; and although they stated that they were maltreated by the Constabulary to force them to confess their participation in the crime, nevertheless they admitted their guilt by blaming one another. They were unanimous, however, in declaring that Mananquil was the leader of the band, thus absolutely disproving Mananquil's statement that he took no part in the deed.

The justice of the peace testified that he did not coerce or threaten the defendants when they signed in his presence the statements contained in Exhibits B, C, D, E, and F. The Constabulary lieutenant, Manuel Palma, the corporal, Florentino Castaneda, and the private, Pedro Sotto, denied that they made any threats or promises to, or used any violence toward, the defendants at the time the latter made the said sworn statements.

The fact that, several days after the robbery, the Constabulary succeeded in ascertaining from Pablo Balingit the whereabouts of some of the articles that were stolen, for Balingit's wife, following the information given by her husband, got from the interior of a wood, adjacent to their house, a shell comb and some clothes belonging to Alfonsa Nidera, who identified them as hers; and the further fact that Corporal Castaneda found in the possession of Felix Mananquil, a son of the defendant Jorge Mananquil, a ring that was likewise identified by the said Alfonsa as being one of the articles stolen by the said Jorge Mananquil, is corroboratory evidence of the defendants' guilt as the undoubted perpetrators of the robbery herein charged.

So, the evidence of the prosecution and other incriminatory data of record produce conviction beyond all doubt of the defendants' guilt as directly responsible for the crime charged. No impediment to this conclusion may be

found in the circumstance that Macario Cabalu and Serapio Enriquez, who testified against the defendants, were in the company of the latter during the commission of the robbery, for the reason that the testimony of these two witnesses, they having been excluded from the complaint, is corroborated by the other evidence found in the record, and the conviction reached of the defendants' guilt is based, not on that testimony alone, but on the whole of the evidence, all conclusive and decisive, and other data furnished by the prosecution. Pablo Balingit and Juan Policarpio withdrew their appeals.

In the commission of the crime account must be taken of the presence of aggravating circumstances 15 and 20 of the Penal Code, since it was perpetrated at nighttime and in the dwelling of the offended parties, and these are not offset by any mitigating circumstance; therefore the penalty fixed by law must be imposed upon the defendants in its maximum degree.

For the foregoing reasons, the judgment appealed from is found to be in conformity with the law and the merits of the case, and must be and is hereby affirmed; provided, however, that the penalty imposed upon Severino Guevara and Sixto Romero shall be ten years of presidio mayor, with a fifth part of the costs againsts each, and as otherwise provided in the judgment appealed from. So ordered.

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

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