

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CIRILO BAUA, DEFENDANT AND APPELLANT.*G.R. No. 8971. March 14, 1914*

Ponente: TRENT, J.

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This is an appeal by Cirilo Baua from a judgment of the Court of First Instance of the Province of Cagayan [Isabela] sentencing him to imprisonment for a period of seventeen years four months and one day, to indemnify the heirs of the deceased, and to the payment of the costs of the cause for the crime of murder.

Jose Garma, a lad about 12 years of age, left his house on Saturday afternoon, November 23, 1912, in search of a stray carabao and on the following Monday, November 25, he was found lying dead, in the barrio of Calattao, near his mother's house, with forty-four wounds upon various parts of his body. The prosecution's case depends almost entirely on the testimony of one witness, named Gaspar Paguirigan, of from 12 to 15 years of age. This witness testified in substance as follows:

"Cirilo Baua invited me to come with him and follow the deceased, whom we had seen ride by on a carabao going in the direction of Callarin. I, knowing that Cirilo had bad intentions toward the deceased, went with him and we came up with the deceased from behind. The deceased did not see or hear us. Cirilo pulled the deceased down from the carabao and attacked him with a bolo with which he inflicted many blows. At every blow I heard the deceased cry out, 'Pardon me.' When I had seen and heard this I ran away and while I was running away I heard Cirilo cry out, 'Gaspar, if you are going to tell this to anybody I will kill you.' On hearing this I ran the faster. I ran on home, approximately half a mile distant, reaching there about 6 o'clock p. m. While I was running I fell and hurt my shoulder." [Witness' shoulder, upon being exposed to the court, showed a small scar about three quarters of an inch long.] "I never told the Constabulary that I hurt my shoulder by falling out of some bamboo trees. I scratched my left thumb on some bamboo two days before the day of the homicide." [There was a small scar still visible on the witness' thumb at the time of the trial.] "One day when I was in the house of the deceased I learned that the deceased had stolen a penknife from Cirilo. I lived about a hundred and fifty yards from the house of Cirilo and about fifty yards from the house of the deceased. I formerly knew the deceased when we were planting tobacco at Marsibang, but I was neither a friend nor an enemy of his, although I played with him. The only time when I was ever at the house of the deceased was on the occasion when I saw the deceased had stolen Cirilo's penknife. I usually played with the deceased's brothers. The stains on my clothes which were exhibited were banana stains. The last time I had this bolo (Exhibit 4) was on Monday (November 25), on which day a lady named Aurelia Marfil had taken it from me and since that time it has been in her possession. It is not true that my mother and myself went to Aurelia's house, weeping, in order to hide the bolo with her. I had some trouble with the deceased at one time when I went to the river to take a bath. While I was taking this bath my carabao went to eat the deceased's pumpkins and when I went to the deceased's house to get my carabao my pin fell to the ground and when I asked the deceased for it the deceased addressed me in very insulting language. I had no bolo at the time Cirilo attacked and killed the deceased. I did not see any bolo in the hands of the deceased at that time."

None of the other witnesses called on behalf of the prosecution claimed to have been present at the scene of the homicide. Of these other witnesses the deceased's mother knew, as the trial court said, "nothing about the real facts in the case," her testimony in relation to the pursuit of the deceased by Cirilo and Gaspar and the latter's attack being hearsay only, obtained from information from me other than Gaspar himself. She did, however, have personal knowledge concerning the enmity between her son (the deceased) and Gaspar. She testified that the deceased's only known enemy "was Gaspar Paguirigan, because this man at the time of cutting tobacco leaves chased my son with a bolo." This was in the month of March next preceding the homicide. Regarding the trouble between the deceased and Cirilo over the penknife, this witness testified that the deceased had returned the penknife to Cirilo two weeks before the date of the homicide.

The chief of police testified that he had investigated the case and had ordered Gaspar's arrest. The justice of the peace who held the preliminary investigation testified that on the strength of the statement of the mother of the deceased to the effect that Gaspar had previously chased the deceased with a bolo he had issued an order for Gaspar's arrest, and that after the deceased's body had been found Gaspar pointed out the place of the homicide. The president of the municipal board of health testified as to the identity of the deceased and the forty-four wounds found on the body. This witness also testified that he had examined the cuts on Gaspar's shoulder and thumb and was of the opinion that they had been made by a "cutting instrument"

The testimony on behalf of the defense tended to prove that Cirilo, at the time of the homicide, was in the barrio of Reina Mercedes, and that the stains on Gaspar's shirt looked and smelled like blood-stains. The Constabulary officer testified that Gaspar handed him the bolo, Exhibit 4, and that bolo Exhibit 3 was found sticking in the wall of Gaspar's house. Aurelia Marfil testified that on Monday, after the police had gone for the deceased's body, Gaspar and his mother came, weeping, to her house in order to hide a bolo there, but that she, Aurelia, had refused to take it. This witness is an aunt of Cirilo.

Upon the evidence before it, the trial court on March 27 found: (1) That the witness Gaspar Paguirigan was present when the crime was committed, if not in the character of a principal, in that of an accomplice; (2) that Gaspar Paguirigan was the only eye-witness to the homicide; (3) that there was "very little corroboration of his evidence with the exception of the facts that (a) appellant and deceased were near neighbors and as boys played together; (b) deceased had once stolen a penknife of the defendant," and that (c) Gaspar Paguirigan, "when arrested as a suspect and at the tribunal, described the place where the crime had occurred and pointed out the spot;" (4) that the appellant was guilty of the crime as charged in the information.

It is well settled that we will not interfere with the judgment of the trial court in passing upon the credibility of opposing witnesses unless there appears in the record some fact or circumstance of weight or influence which has been overlooked, or the significance of which has been misapprehended or misinterpreted. (U. S. vs. Beriítez, 18 Phil. Rep., 513; U. S. vs. Ambrosio, 17 Phil. Rep., 295.) This rule necessarily presupposes that a trial court is not infallible in its conclusions drawn from facts and circumstances, or in its considerations, apprehension, or interpretation of them. It is equally well settled that this court will reverse upon the facts the decisions of trial courts if we find the facts are insufficient to warrant a confirmation. (U. S. vs. Federizo, 20 Phil. Rep., 151; U. S. vs. Samonte, 20 Phil. Rep., 157.)

We have often said, and the law so states, that every defendant in a criminal prosecution is presumed to be innocent, and that this presumption stands until it is overcome by competent evidence. This presumption may be overcome and the guilt of an accused person may be established by the testimony of a single witness even though the witness be an accomplice. (U. S. vs. Sy Quingco, 16 Phil. Rep., 416; U. S. vs. Ambrosio, 17 Phil. Rep., 295; U. S. vs. Callapag, 21 Phil. Rep., 262.) But these decisions lay stress on the rule that such testimony must leave no room for reasonable doubt. The lack of corroboration of the testimony of an accomplice affects his credibility as a

witness, but it does not affect his competency as such. If his testimony satisfies the court beyond a reasonable doubt, it is sufficient. (U. S. vs. Callapag, supra.)

In the case of United States vs. Ambrosio, supra, this court said: "It is unquestionably true that the testimony of an accomplice must be taken with great care and caution. It must be assayed and weighed with scrupulous care. The corroborating testimony must be strong and convincing. It is also true, however, that when the testimony of an accomplice is corroborated by unimpeachable testimony and by strong circumstances, it may be given its true weight and force against the person in regard to whom it is presented."

Gaspar Paguirigan was, according to the decision of the trial court, at least an accomplice. His testimony must be weighed with scrupulous care. In addition we cannot overlook the inconsistencies in Gaspar's testimony. In identifying the kampilan, Gaspar stated that he had been in the deceased's house when it was stolen and that this was the only time that he had ever been there. A few minutes thereafter he contradicted this statement by saying that he had been in the deceased's house on another occasion when the deceased "used bad language toward him." To have lived in a small barrio as near as one hundred and fifty yards, as Gaspar did, without going to the deceased's house but twice, is somewhat suspicious and doubtful Gaspar and the deceased were known to be enemies or at least to be on unfriendly terms. Gaspar's testimony to the effect that Aurelia had taken his bolo and had kept it, is difficult to reconcile with the testimony of Aurelia and the Constabulary soldier. Again, Gaspar's two different stories about cutting his shoulder and thumb are suspicious, especially when the medical testimony to the effect that the wounds were made by a "cutting instrument" is taken into consideration. Why was Gaspar so anxious to show that the stains on his clothes were not bloodstains? Why could he not have stated that they were bloodstains from the cut on his shoulder received when he fell from the bamboo? Why was he so anxious to show that they were banana stains when they looked and smelled like stains of blood? It would seem as if Gaspar expected the trial court to believe that he fell from the bamboo tree, cut his shoulder, and got a banana stain from it.

The story about the pin is riot convincing. Why should the fact of Gaspar's dropping the pin rather than the fact of the carabao's eating the pumpkin affect the deceased's temper to the extent of calling Gaspar names?

Now, looking simply to the general circumstances of the case brought out by the uncontradicted testimony we find (1) that Gaspar was the first person to be suspected of the homicide; (2) that he was present at it; (3) that he had fresh cuts on his shoulder and thumb for which he accounted in two inconsistent ways; (4) that he was known to be an enemy of the deceased; (5) that he himself testified to the existence of bad feeling between the deceased and himself, when that pin of his fell to the ground and deceased used insulting language; and (6) that his clothes were found to be stained with something¹ that to disinterested witnesses looked and smelled like blood. All of these are matters of positive truth. Under these highly suspicious circumstances Gaspar surely had everything to gain and nothing to lose in exonerating himself and in fixing the blame upon some definite other person. This other person was appellant. By way of negative proof the general circumstances disclose (1) that appellant was not the first person to be suspected of the homicide; (2) that there is absolutely no admissible evidence, except the statement of Gaspar, that appellant was present at the time the deceased was killed; (3) that Gaspar was known to be an enemy of the deceased; (4) that it is nowhere shown that at the time of the homicide there was any trouble or any reason for any trouble between the deceased and the appellant; (5) that the appellant did not have fresh cuts on his hands and body made by a "cutting instrument;" and (6) that his clothes were not found to be stained with stains that looked and smelled like human blood. Do these circumstances pro and con tend to establish the guilt of the appellant beyond a reasonable doubt? Do these circumstances corroborate the sole incriminating testimony—testimony that is both intrinsically untrustworthy and intrinsically self-contradictory and self-contradicted—of an accomplice himself suspected of the crime? Are these circumstances inconsistent with the

hypothesis that the appellant is innocent and with every other rational hypothesis except that of guilt?

The stealing of the penknife, as we have indicated, is absolutely the only evidence in support of the contention that bad blood existed at one time between the deceased and the appellant. The penknife having been returned, as stated by the witnesses, two whole weeks before the date of the homicide, it would seem that there was left no convincing reason for the existence of subsequent bad blood between these two parties.

From the whole record it appears to us that the trial court failed to give due weight to the testimony of the witnesses and the evidence offered on behalf, of the appellant. Of the witnesses called on behalf of the appellant at least three, the Constabulary corporal, the teniente of the barrio, and the municipal president, were totally disinterested. The other two witnesses, the appellant himself and his aunt, were interested, but their testimony is competent and no more suspicious per se, or of no more doubtful nature, than that of Gaspar, upon whose testimony alone the conviction rests. All three of the disinterested witnesses saw the stains on Gaspar's clothes, and, as we have said, Gaspar had good cause to fix the blame on some other person than himself. As opposed to this there is the positive evidence, no less reliable than Gaspar's, that appellant was not at the place when the killing occurred. None of the testimony of the witnesses called on behalf of the appellant is inconsistent but appears to be a straightforward relation of actual facts within their knowledge. We must therefore conclude that the evidence fails to show beyond a reasonable doubt the guilt of the appellant of the crime committed.

For the foregoing reasons the judgment appealed from must be reversed and the defendant acquitted with costs de oficio. So ordered.

Arellano, C. J., Carson, Moreland, and Araullo, JJ., concur.

Judgment reversed; defendant acquitted.

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