

[ G.R. No. 1282. September 10, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. SIMEON FIGUERAS ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**MAPA, J.:**

The judgment of the Court of First Instance from which the defendants appealed finds them guilty of the crime of conspiracy under section 4 of Act No. 292, and imposes upon them the penalty of two years' imprisonment and a fine of \$2,000, and four years' imprisonment and a fine of \$5,000, respectively. The merits of the case did not justify this conviction; therefore the judgment must be reversed.

Of the three witnesses presented on behalf of the prosecution, namely, Paulino Legaspi, Laureano Martinez, and Petronilo Portugal, we must disregard the testimony of the latter, as it proves absolutely nothing against the defendants. He testifies that he was invited by Paulino Legaspi to rebel against the Government, and that he was given to understand by Legaspi that there were many persons who *intended to conspire*, but the witness did not know whether the accused were implicated in this conspiracy.

Paulino Legaspi testifies that various persons, some forty more or less in number, were conspiring to overthrow the constituted Government, and states that he knows that the defendants were engaged in this conspiracy because he heard them say so in their conversations. Called upon to repeat the words which he heard them say, he stated the following: "*What a life this is, so full of misery, constantly increasing. When will our wretchedness end? When will the authorities remedy it? What shall we do?*" He does not state that he heard anything beyond this, and it appears that he relies solely upon these words, used by the defendants, as a basis for his assertion that they were conspiring. This, being so, his assertion appears clearly to be the result of an arbitrary and gratuitous conclusion, because, although these words reveal discontent on account of the evils, real or

fictitious, to which they refer, they are not alone sufficient to prove the existence of a conspiracy to rebel, much less with the aid of force, against the constituted Government. The reason which the witness gives us for his belief is not, therefore, convincing, and consequently we consider that his evidence must be rejected as to this part of his testimony.

As to other matters this witness testifies solely from hearsay. "They say" (these are his own words) "that these" (the accused) "are the principal conspirators." "According to my information," he adds further on, "this agreement has existed" (referring to the agreement to rebel against the Government, which in the opinion of the witness constitutes the conspiracy), "not only between these Uyo but also between them and others." Again, when answering a question put to him in general terms, as to whether his testimony was the result of his own knowledge, he stated that he knew these things only by hearsay and that he was unable to state from whom he received his information. Other than the testimony referred to, this witness testifies to no concrete fact relative to the conspiracy herein prosecuted, and does not even know if the accused have formed any determination evidencing their intention to conspire, nor does he know if they have collected contributions or attempted to obtain possession of arms for the purposes of the conspiracy.

The testimony of Laureano Martinez would doubtless be more important than that of the preceding witnesses were it not highly improbable from several points of view. In the first place, it is improbable that the defendants should select the house of this witness, Martinez, for the purpose of meeting together to conspire, to read and comment upon correspondence relating to the conspiracy, and to consider the matter of contributions and arms collected for the purposes thereof, as this witness testifies, doing all this in his presence, without the slightest caution or care, when it appears from the testimony of the witness himself that not only was he not a party to the conspiracy but that he had not even been requested to join it. From this it follows necessarily that the conspirators could not know whether they could count upon his consent and adhesion or not, and it is incredible that the defendants should discuss so grave and delicate a matter with such an absolute disregard of the most rudimentary precautions—precautions which the most ordinary prudence would counsel in such cases—as would appear to be the case from the testimony of the witness Martinez. This would be equivalent to supposing that the defendants and their companions were entirely devoid of the instinct of self-preservation. In the second place, and from another point of view, it is also improbable that Martinez, who had no interest in the conspiracy, he being, according to his own testimony, an entire outsider, would have permitted such criminal meetings to be held in his house, thus exposing himself to disagreeable consequences.

The letter which this witness states he abstracted from the pocket of the defendant Bermudes, and which has been attached to the record as evidence for the prosecution, might perhaps have some value as evidence if it were shown: (1) That the words and phrases used in the letter have a conventional meaning; and if so, then the ordinary meaning of the words and phrases employed; (2) the authenticity of this letter. Nothing in this connection has been proven, nor was any attempt made to introduce such evidence at the trial, and in the absence of such important data the value of this letter as evidence must depend exclusively upon the testimony of Laureano Martinez, whose credibility, as we have already stated, appears exceedingly doubtful. The terms of the letter itself are such that, given their natural and ordinary meaning, they do not even remotely show the existence of any conspiracy.

Furthermore, it is at least strange that Martinez, although he succeeded in getting possession of the letter on the night of Monday,, March 9, did not deliver it to the governor of the province until the night of Wednesday, the 11th, if, as he testifies, his sole purpose in stealing it was to discover and denounce the conspiracy. There is nothing in the case, supposing that such was his purpose, to satisfactorily explain such a delay, and it is even more strange that it should not have occurred to the witness to rend the letter. He had it in his possession for a considerable length of time, and it would have been natural for him to be interested in reading it, either for the purpose of assuring himself that it was the same letter he proposed to purloin and not some other, or else for the purpose of determining, by acquainting himself with its contents, of which he had no knowledge, whether or not it was sufficient to support the very grave charge which he proposed to lodge with the Government authorities of the province. Above all, the fact that the other witness for the prosecution, Paulino Legaspi, Avho, according to the testimony of Martinez, is the one who delivered this letter to the defendant Bermudes, not only fails to say a single word about it but testifies in such a way that it may reasonably be inferred from his testimony as a Avhole that he was wholly ignorant of the existence of the letter, his statements thus being an implicit denial of the assertions of Martinez in tliis regard.

The representative of the Government in this instance attempts to explain what he terms the vacillation of the witnesses for the prosecution by the fear which, in his opinion, they naturally would have of incriminating themselves or of being held to some responsibility. This argument rests upon the assumption that these witnesses have had direct relations with the defendants with respect to the facts concerning which they testified, and that it may even be inferred that they were involved in the conspiracy. We can not admit this assumption, particularly in view of the fact that the witnesses themselves declare that they

had not even been spoken to about taking part in the conspiracy. Apart from this, no matter how much stress may be laid upon the fear to which the Solicitor-General refers, we can not see how the words of the witnesses can be interpreted to mean something entirely opposed to their natural and proper meaning. The law does not require a witness to incriminate himself, but it does impose upon him the obligation of being truthful in his testimony. Upon no other assumption than that of the witness's veracity can his testimony be considered at all.

The prosecution has endeavored to prove that on the night preceding the day on which the information in this case was filed the witness Martinez was pursued by the defendants, accompanied by some other persons, in order that they might revenge themselves upon him for having denounced them to the governor of the province. The merits of the case do not appear to us to conclusively establish this fact; but even if it were true, it would not necessarily establish the guilt of the defendants. They might feel resentment and a desire for revenge<sup>1</sup>; against the informer, even though they were completely innocent of the offense charged; it may even be said that the more false and defamatory the charge laid against them, the more natural and the more profound would be their resentment.

In view of the insufficiency of the evidence for the prosecution it is unnecessary to consider the weight to be attributed to the testimony of the witnesses for the defense, which, however, tends to demonstrate the innocence of the defendants. Their guilt not having been established by the evidence, they are entitled to an acquittal.

We therefore reverse the judgment appealed and acquit the defendants, with the costs of both instances *de officio*.

*Arellano, C. J., Torres, Cooper, Willard, and McDonough, JJ., concur.*