

4 Phil. 467

[G.R. No. 1930. April 26, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MARGARITO ACABAL ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a complaint dated September 23, 1903, the individuals, Margarito Acabal and Luis Baldado, were charged by the provincial fiscal of Oriental Negros with the crime of illegal detention, in that these defendants on the 31st of August of the same year, in the nighttime or the morning following, went to the house of Aguedo Lopez, situated in Botong, town of Manjuyud, together with some other unknown individuals, and exacted from Lopez his personal cedula, which, after being exhibited and examined by the defendants with the aid of the light which Micaela Anfone, wife of Lopez, lighted, the two defendants told him that said cedula was of the previous year and for this reason they took him with them on leaving the house, and he has never returned to his house since that time, nor has any news ever been received of his whereabouts; all of which was contrary to law.

The case came on for trial by virtue of the said complaint, and the court, in view of the evidence adduced at the same, rendered judgment on February 18, 1904, sentencing each of the defendants, Margarito Acabal and Luis Baldado, to nineteen years' *reclusion temporal*, to indemnify Micaela Anfone, wife of Aguedo Lopez, in the sum of P500, Philippine currency, and to pay the costs of suit.

It has been fully proven in this case that on the night of August 31, or early in the morning of September 1, 1903, several individuals appeared in the neighborhood of the house of Aguedo Lopez and ordered the door of his house to be opened, stating that they came in the name of "justice," and two of them, who were recognized as Magarito Acabal and Luis Baldado, entered the house and required the owner thereof to exhibit his personal cedula, which the latter did; that they examined it by the light of the lamp which Micaela Anfone,

his wife, lighted; the latter then and there recognized the two defendants as members of the police, old acquaintances whom she knew, and perceived that Acabal carried a poniard. That after the two defendants examined the cedula they told Lopez that it was a cedula for the previous year, and told him to give himself up as a prisoner and follow them, which he did, without having been allowed, to go back to the house to put on a pair of trousers, which trousers had to be brought from the room where one Isabel Andaya was ill in bed, and were handed to him by his wife; that from that moment up to the 17th of February, 1904, the date of the trial, the sequestered man had not returned to his house, nor were his whereabouts learned, notwithstanding the steps taken by his wife, who went to the president and to the justice of the peace of the town and to the defendants themselves, asking for her husband, for which reason and in view of the negative result of her investigations it was suspected that he had been killed.

It is undeniable then that the crime of illegal detention for more than twenty days provided for and punished in paragraph 1 of article 482 of the Penal Code has been committed, since it has been fully proven (1) that Aguedo Lopez was taken from his house and sequestered, in the presence of his wife and of another witness who was in the house at the time, although sick, and (2) that the sequestered man has completely disappeared and has not returned to his house from the night of August 31, 1903, to February 17, 1904, or up to the present time, his whereabouts being entirely unknown. The defendants, Margarito Acabal and Luis Baldado, together with some other unknown individuals, have been fully convicted as principals by direct participation in the commission of this serious crime. The exculpations set up by the defendants and the testimony of the witnesses who were presented by the defense on the trial can not offset or counterbalance the evidence adduced by the prosecution, which fully convinces the mind of the guilt of both defendants.

The defendants might have been in the municipal building hours before carrying into effect the sequestration, and it may be true that Baldado was taken sick with cholera, but taking into consideration the short distance between the tribunal and the house of the sequestered man, situated within the town, it would not be impossible that these defendants might have been seen in the municipal building and then have committed the said crime.

We agree with and accept the considerations made by the court below as regards the character, extent, and preponderance of the evidence of the prosecution over that of the defendant, and give more credit to that which substantiates the charges, for, starting with the existence of the capture, it has not been proven nor even intimated that the wife of the

sequestered man, who knew the defendants very well previously to the commission of the crime, for the reason that they were inhabitants of the same town, and who recognized them on that night by the light of a lamp which they used to read the cedula by, should have imputed calumniously the commission of this crime to the defendants, when we take into consideration the steps which she took to locate her husband and the questions which she put to the defendants and to the president and the justice of the peace about his whereabouts, which are the best proof of the truth and certainty of the sequestration which she complained of, stating that the defendants were the authors of the crime, which she informed everybody publicly. Her charges have not been rendered baseless or contradicted by the defendants.

In the commission of the crime there is no mitigating circumstance to be considered, but we do find the aggravating circumstances 8 and 15 of article 10 of the Penal Code, for the reason that the crime was committed at night, and the perpetrators having used cunning, fraud, and deceit, they having declared that they came in the name of justice, with the pretext of examining the cedula which was exhibited by the sequestered man, which they declared to be of the previous year. Such a condition of affairs as his not having a cedula of the fiscal year would not be legal grounds for the arrest of a person in the late hours of the night. For this reason the defendants have incurred the maximum degree of *reclusion temporal*.

Therefore, in view of the considerations above stated, we are of the opinion that Margarito Acabal and Luis Baldado should be sentenced to nineteen years of *reclusion temporal* each, with the accessories provided for in article 59 of the Penal Code, to indemnify jointly and severally the sum of P500 to Micaela Anfone, and to pay the costs in both instances, one-half each, thus affirming the penalty imposed in the judgment appealed from. This case to be returned to the court below with a certified copy of this decision and of the judgment which shall be entered in accordance herewith. So ordered.

Arellano, C. J., Mapa, Johnson, and Willard, JJ., concur.

