

4 Phil. 545

[ G.R. No. 2186. May 05, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. LORENZO BALISACAN ET AL., DEFENDANTS AND APPELLANTS.**

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

**WILLARD, J.:**

A separate brief has been presented in behalf of the appellants Ambrosio Agnis, Eulogio Malvar, and Zoilo Malvar and it is claimed (that there is no evidence to show that they took any actual part in the killing of Antolin Alejandro. We can not agree with this view. They were present from the time the deceased was taken from his house until the time he was killed, and must be considered, under the evidence in the case, as principals. A majority of the court is also of the opinion that the defendants Santos Manuel and Mariano Ganutisi must also be considered as principals. They did not accompany the rest of the party to the place where Antolin was killed, but were detailed to guard the witness Mateo Reyes at a point some distance from the place where the killing of Antolin took place.

Pedro Ganiron was convicted in the court below, but the Solicitor-General is of the opinion that the evidence was not sufficient to warrant such a judgment. The witness Mateo Reyes says that Pedro was not present and did not participate in the act in question. On the contrary, the six other defendants testify that he was present, that he was the moving spirit in the commission of the crime, and that Antolin Alejandro was killed because it was claimed by Pedro Ganiron that he and the witness Mateo Reyes had stolen some property belonging to Pedro.

The Solicitor-General bases his contention upon the proposition that one defendant should not be convicted upon the sole testimony of his codefendants, but in this case the testimony of the codefendants is corroborated to a certain extent by the witness Mateo Reyes. He testified that it was true that Pedro Ganiron had presented a complaint against him and the deceased for theft of the articles which the other witnesses mentioned in their testimony. He also corroborates the other witnesses in regard to the kind of uniform that Ambrosio Agnis wore when he came to the house of Antolin for the purpose of taking him to the house of Ganiron.

It is to be observed, moreover, that Mateo Reyes at the beginning of his testimony stated that Pedro Ganiron was present and took part in the act, although almost immediately he corrected this and stated that he was not present.

The judgment of the court below is affirmed with the costs of this instance against the appellant.

*Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.*

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