

[G.R. No. 1431. January 27, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. SIMON PUNSALAN,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant in this cause was charged with the crime of murder. The proof showed that on or about the 9th day of May, 1903, a civil cause was tried, in which the accused was plaintiff and Don Francisco P. Tizon was defendant, before a justice of the peace of the pueblo of Candaba, in the Province of Pampanga, P. I. After the testimony in said cause had been taken, the witnesses were recalled in the office of the justice of the peace for the purpose of signing their respective statements. The plaintiff and the defendant in the said cause were then and there present. While one of the witnesses was in the act of signing the statement which he had made in the trial, Don Francisco P. Tizon was invited by the justice of the peace to accompany him into an adjoining room. At this instant, and immediately after Don Francisco P. Tizon had arisen from his seat to accompany the said justice of the peace into the adjoining room, the said defendant arose and with a knife in his hand followed Mr. Tizon and at once began to stab him in the back and elsewhere in his body. Some fifteen wounds, more or less serious, were found upon the body of Mr. Tizon after his death, all of which were then and there inflicted by the said accused. The said Mr. Tizon died in the act. It is not disputed that he died from the effect of the wounds inflicted by the accused. This proof or the proof of the foregoing statements of fact was supported by various witnesses. There is no proof tending to show what caused the accused to attack the deceased in the manner

described. The evidence showed that the deceased was not armed in any way, that the accused was armed with a penknife, and that the wounds were inflicted by the penknife.

The defendant was tried in the Court of First Instance of the Province of Pampanga and was found guilty of the crime of murder and sentenced with the penalty of *cadena perpetua*, with the accessories provided for in article 54 of the same code, and to indemnify the heirs of the deceased in the amount of 2,000 pesos, in case of insolvency to suffer subsidiary imprisonment, and to pay the costs of the said suit

The court below found as a qualification of the crime *alevosia*. This finding is clearly substantiated by the proof given in said cause. The court also found as aggravating circumstances, premeditation and the fact that the crime was committed in the place where the public authorities were found exercising their functions.

There is no proof that the party acted with premeditation. This court has found that the crime was not committed in the place where the public authorities were found exercising their functions. Therefore this court finds that neither of the two said aggravating circumstances exist. The proof does not show any extenuating circumstances. Therefore we have the crime of murder with its qualifying circumstance of *alevosia*, without either aggravating or extenuating circumstances, and by virtue of the provisions of article 97 of the Spanish Penal Code the medium degree must be imposed.

The sentence of the lower court is hereby modified and the said accused, Simon Punsalan, is hereby sentenced to the penalty of *cadena perpetua*, with those accessories mentioned in subsections 2 and 3 of article 54 of the Penal Code, and to indemnify the heirs of the deceased in the sum of 2,000 pesos, and in case of insolvency to suffer subsidiary imprisonment, and to pay the costs of both instances.

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

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