

4 Phil. 124

[G.R. No. 1340. January 12, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CLARO MENDOZA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

Claro Mendoza, the appellant in this case, is charged with the crime of *asesinato*.

The evidence adduced at the trial fully establishes his guilt as charged, and supports the findings of fact in the sentence of the trial court.

Counsel for appellant assigns as error the alleged absence of the accused during the preliminary trial.

An examination of the record shows that the so-called preliminary trial at which the accused was not present was in fact a mere preliminary investigation, held for the purpose of determining whether a warrant of arrest should issue on the information filed by the provincial fiscal, and in the very nature of things the accused seldom is present during the course of such investigations.

It is alleged further that the court erred in failing to notify the accused of his right to bail pending trial; but granting that this allegation be true, though it is not supported by evidence, it does not appear that the substantial rights of the accused were prejudiced thereby, and it nowhere appears that his right to bail was in fact denied.

Error is further assigned in that some of the testimony admitted was

incompetent as hearsay, but it does not appear that objection was made to the introduction of this testimony, and there is sufficient evidence to support the finding and the sentence of the trial court after excluding from the record all incompetent testimony. The sentence should be affirmed. So ordered.

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

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