

4 Phil. 256

[ G.R. No. 1677. March 13, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ALEJO CARANTO ET AL., DEFENDANTS AND APPELLANTS.**

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

**CARSON, J.:**

The information in this case alleges that the accused, Alejo Caranto and Melchor Gloria, on the 30th day of September, 1903, in the municipality of Bautista, in the Province of Pangasinan, did, with willful and deliberate premeditation, murder Toribio de la Cruz and Francisco Bandong by inflicting upon them, with deadly weapons, a number of fatal wounds.

The trial court found both the accused guilty, as charged, of the crime of *asesinato*, as denned and penalized in article 404 of the Penal Code, and sentenced them and each of them to suffer the penalty of *cadena perpetua*, the accessory penalties prescribed by law, the indemnification of the lawful heirs of each of the deceased persons in the sum of 1,000 pesos, and to the payment of the costs of the proceeding.

The trial court, in deciding the case, holds "that the witnesses on the part of the Government proved beyond question that this crime was assassination within the provisions of article 403 of the Penal Code, because the deliberate premeditation is established by previous threats, and the fact that the two accused were the authors of the crime is established by the eyewitness, Pascual Ramos."

An examination of the record shows that the threats to which the court refers were not of the direct and specific character which would justify a finding of deliberate premeditation as contemplated in

article 403 of the Penal Code.

It appears that one of the accused, upon discovering that they had been robbed of their fishing boat, declared in the presence of several witnesses that “the thieves, whoever they were, would be turned into ghosts, unless first he himself should be made into a ghost by the thieves.”

There is nothing to show that the accused had in mind the persons who were afterwards killed when he made these threats, nor, indeed, that they were directed against any person in particular; and there being no other evidence in the record to show that the crime was committed with deliberate premeditation, we think that this fact was not proven beyond a reasonable doubt, and this finding and the sentence of the trial court is therefore reversed.

We are of opinion that all the other facts alleged in the information were proven beyond a reasonable doubt, and that the said Alejo Caranto and Melchor Gloria are guilty of the crime of homicide in manner and form as alleged in the information, and said homicide, being an offense necessarily included in the crime of assassination, with which they were charged, and there being no aggravating or extenuating circumstances, this court should and does hereby sentence the said Alejo Caranto and Melchor Gloria, and each of them, to fifteen years *reclusion temporal*, to the accessory penalties prescribed in article 59 of the Penal Code, to the indemnification of the heirs of each of the deceased in the sum of 1,000 pesos, and to the payment of the costs of both instances. So ordered.

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

