

4 Phil. 259

[G.R. No. 1758. March 13, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MACARIO CATIGBAC,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant here was charged with the crime of assassination, was tried by the Court of First Instance of the Province of Batangas, and sentenced to the penalty of death.

The complaint charged that on or about the hour of 8 o'clock p. m., on the 12th day of September, 1903, in the pueblo of Lipa, of the Province of Batangas, the accused, Macario Catigbac, after lying in wait for Ireneo Abaca, called to the latter on the pretext of desiring to speak to him, and later inflicted certain wounds with a poniard, causing the said Ireneo Abaca certain mortal wounds from the effect of which the said Ireneo Abaca died at about 2.30 o'clock a. m. of the following day.

The evidence shows that the deceased owed the defendant a certain sum of money; that the accused called at the house of the deceased on the afternoon of the 12th day of said month for the purpose of collecting said sum of money; that the deceased had promised to pay to the accused the said debt on said day; that at the time the accused called at the home of the deceased the latter was absent; that the accused became somewhat displeased because the deceased had not paid the debt in accordance with his promise, as the accused alleged; that later, on the same day, the accused attempted to find the deceased again for the purpose of collecting the said debt; that after the

accused had looked for the deceased for some time they met in one of the streets of said Lipa; that a quarrel ensued; that after quarreling some time with reference to the alleged debt they engaged in a fight; that during the fight the accused wounded the deceased, from the effects of which wound deceased died after some six or seven hours. The evidence further shows that immediately after the fight between the accused and the deceased the accused presented himself before the governor of the province, and also presented to the governor the poniard which he used in wounding the said deceased.

An examination of the evidence adduced during the trial of said cause in the opinion of this court fails to disclose that the defendant committed the said offense with premeditation; neither does the evidence show that his acts were committed with *alevosia*—that the accused had done any act which in any way showed that he had inflicted the wounds by treachery. The crime therefore can not be qualified as assassination.

The evidence does show, however, that the defendant did kill Ireneo Abaca without the attendance of any of the extenuating or aggravating circumstances provided for in the Penal Code. The crime should therefore be qualified as the crime of homicide and the defendant should be punished under article 404 of the Penal Code. The sentence imposed by the Court of First Instance is therefore reversed, and the defendant is hereby sentenced to be imprisoned for the period of seventeen years and four months of *reclusion temporal* and to pay the costs of both instances. So ordered..

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