

[G.R. No. 1726. March 29, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. PRUDENCIO SORNITO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a complaint dated September 24, 1903, the provincial fiscal of Iloilo charged Prudencio Sornito and Juan Sondia with the crime of homicide in that the defendants, while at the place called Miraga or Lanog, in the town of Santa Barbara, on the 5th day of said month, illtreated one Isabelo Hechanova, with a revolver and a gun which they had, respectively, as members of the police of that town, inflicting upon said Hechanova certain wounds in the forehead, back, neck, and in the corner of the right eye. That the said Hechanova died as a result of said wounds on the 12th day of said month. That the reason for the attack was the fact that Isabelo did not respond immediately when, called by the defendant Sornito. All these acts being committed contrary to law. The case having come on for trial in pursuance to said complaint, the judge, after considering the evidence adduced, sentenced the said Prudencio Sornito to twenty years' imprisonment and Juan Sondia to seventeen years' imprisonment, and both to jointly and severally indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs, one-half each, and in case of insolvency, to suffer subsidiary imprisonment. From this judgment the defendants appealed.

From the evidence adduced during the trial, it appears fully proven by the testimony of competent witnesses that about 10 o'clock on the morning of September 5, 1903, Jaro Isabelo Hechanova and his brother, Honorato Hechanova, and Eliseo Hermano went to the town of Santa

Barbara to buy some chickens; that when they were passing through Calle Real and in front of the store where three municipal policemen in uniform, viz, Corporal Prudencio Sornito and Privates Juan Sondia and Damasol Subieron, were standing, they were stopped by the latter; that the corporal asked them where they had come from, and although they answered that they came from Miraga, Corporal Sornito seized Isabela Hechanova by the neck, for the reason that the latter did not come immediately and beat him in the forehead with the butt of his revolver; that at the same time Juan Sondia also beat him in the neck and behind the right ear with the butt of his gun; that when the victim fell on his face he continued to beat him in the back, and as the victim lay on the floor they kicked him; that when Honorato came to help Isabelo and to lift him from the ground, he was also attacked by Corporal Sornito; that the latter then took them into the shop in order that Isabelo might wash himself, as he was bloody; that Corporal Sornito then caught Isabelo by the head and pounded it against a bamboo post, that the other two policemen then, by order of the corporal, took Honorato and Eliseo to the town, the corporal and the wounded man remaining near the spot of the occurrence; that while on the road the policemen set Honorato and Eliseo free; the latter two then went to the town and told the facts to the justice of the peace, stating that Isabelo was seriously wounded and covered with blood; that after the complaint was made, and while the preliminary investigation was being had, Honorato went with the doctor in search of the wounded man; that after the latter was found he was taken to the house of a man named Munoy, situated in Santa Barbara; that when they arrived at that house the wounded man went to bed and never left it, dying on the next Saturday, eight days after he was wounded, and as a result of the wounds inflicted upon him; that during this period of time he was constantly in bed, with his eyes closed and unable to speak, and when spoken to he motioned with his hands to the bruises on his body; that he frequently vomited blood through the mouth and nose; that some of his evacuations were also of blood; that he never was able to take any food, as he immediately threw it up, and, finally, that the deceased, Isabelo Hechanova, was twenty-five years of age and before being illtreated was in a good, healthy condition, but that during his sickness and until he

died he was unconscious and suffering with delirium and fever, all as a result of the injuries which he received.

The doctor, Francisco Ginco, who made the autopsy on the body, stated that the deceased had been wounded behind the right ear and in the forehead, and that his back was swollen; that although he did not see the deceased vomit blood, the people in the house assured him that he had been bleeding and had vomited blood, and that he did not believe that he died as a result of the blows received, because he was recovering from same; that he did not know the cause of his death, but that the deceased suffered from a very high fever, and he could not explain the cause thereof.

It is a fact perfectly proven in this case that Isabelo Hechanova was in a good and healthy condition before being maltreated by the defendants, and that after this attack he suffered from the wounds inflicted; that during the attack he fell to the ground, and after being taken to the nearest house he went to bed, never to rise from it, dying eight days afterwards; that during this period of time he was bleeding through the mouth, nose, and intestines; that he had a very high fever and was unconscious. For these reasons, it is undeniable that his death was the result of the ill treatment he received. Nothing appears to justify his death as the result of any other cause, and, therefore, it can not be denied that the crime of homicide, provided for and punished in article 404 of the Penal Code, was committed.

In the commission of the crime there appears no qualifying circumstance to stamp the crime as murder. The assailants of the deceased were Prudencio Sornito and Juan Sondia, and therefore they are the only ones responsible for said homicide. From the fact that they repeatedly struck the deceased and continued doing so even after he fell to the ground, it must result that they had decided to cause the gravest injury possible to the deceased. In crimes against the life of a human being the results and effects of the criminal acts must necessarily be taken into consideration in order to establish the seriousness and extent of the evil or injury produced and to define the crime in accordance with the law. It must also be taken into

consideration that the guilty parties are responsible under the law for all the unlawful acts executed by them in violation of its principles and for all the consequences of those acts.

In the commission of this crime of homicide we must take into consideration the existence of the aggravating circumstances provided for in paragraphs 9 and 11 of article 10 of the Penal Code. The crime was executed with the use of superior force against the deceased, who was alone and unarmed; the aggressors being policemen, they were given arms, not to create disorder or to attack peaceful inhabitants or to inflict upon them irreparable injury. For this reason there is no extenuating circumstance, and the defendants have incurred the maximum of the penalty provided for the crime of homicide.

By virtue, then, of the reasons above stated, we are of the opinion that the judgment below should be affirmed as regards the penalty of twenty years' *reclusion temporal* imposed on Prudencio Sornito, it being, however, understood that Juan Sondia is sentenced to seventeen years four months and one day of *reclusion temporal*, and both, jointly and severally, to indemnify the heirs of the deceased in the sum of P1,000 without subsidiary imprisonment in case of insolvency, and to the accessories provided for in article 59 of the Penal Code and to pay the costs—one half each. The judgment below is reversed in all that does not conform to this decision.

This case to be returned to the court below with a certified copy of this decision and of the judgment to be rendered in accordance herewith. So ordered.

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