

5 Phil. 346

[G.R. No. 2436. November 22, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GUILUERMO MAZA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This defendant was charged with the crimes of assassination, robbery, assault, and *lesiones menos graves*, was tried by the Court of First Instance of the Province of Batangas, found guilty of the crimes charged in said complaint, and sentenced to life imprisonment (*cadena perpetua*) with the accessory penalties mentioned in article 54 of the Penal Code and to pay the costs. From this decision the defendant appealed to this court.

No objection was made by the defendant in the court below to the fact that the complaint filed in said cause contained more than one offense. (See sec. 11, General Orders, No. 58.) Therefore this defect in the complaint will not be considered here.

The evidence adduced during the trial shows the following facts:

First. That this defendant was sentenced by the Court of First Instance of the Province of Batangas on the 6th day of December, 1902, to be imprisoned for the period of eight years and one day of *presidio mayor* with the accessory penalties mentioned in the decision in that cause.

Second. From this decision the defendant appealed to the Supreme Court on the 9th day of December of the same year.

Third.

That on the 18th day of April, 1903, the Supreme Court affirmed the above sentence of the inferior court. (See General Register of Sentences, Cause No. 1150.^[1])

Fourth. That during the time the said appeal was pending in the Supreme Court the said accused was detained as a prisoner in the provincial jail in the Province of Batangas.

Fifth. That on the afternoon of the 15th day of December, 1902, while the defendant was thus detained as a prisoner in the provincial jail, he, together with other prisoners, attempted to escape from said jail.

Sixth. That in the attempt of the defendant, together with his companions, to escape from said jail, he inflicted wounds upon one Baltazar Ramirez, by means of a revolver which he then and there took from the possession of one of the guards in said jail, from which wounds the said Ramirez died,

Seventh.

That in the attempt of the defendant with his companions to escape from said jail, they did, by force and violence, take from the guards in the said jail, with the intent of appropriating the same to their own use, one revolver, two shotguns, and one rifle, the property of the Insular police.

Eighth. That the defendant, with his companions, in their attempt to escape from said carcel, inflicted wounds upon the *alcalde* of said *carcel* from the effects of which the said *alcalde* did not recover until a period of seventeen days had elapsed.

The evidence adduced during the trial shows beyond peradventure of doubt that the defendant and his companions inflicted wounds upon Baltazar Ramirez, from which the said Ramirez died a few hours later. The evidence fails to disclose, however, any of the qualifying

circumstances mentioned in article 403 of the Penal Code. This act, therefore, can not be qualified as assassination, but must be qualified as the crime of homicide. It is argued on behalf of the defendant that there was no evidence to show that he personally inflicted the wounds upon the said Ramirez which caused the latter's death a few moments later. The general doctrine, both by the supreme court of Spain and the courts of the United States, is that "where two or more persons act together in the commission of a crime, whether they act through the physical volition of one or of all, proceeding severally or collectively, each individual whose will contributes to the wrongdoing is in law responsible for the whole, the same as though the act or crime done or committed was by himself alone." (Decision of the Supreme Court of Spain of September 29, 1883; *United States vs. Snyder*, 3 McCrary, 377; *Hanna vs. People*, 86 111., 243; *Spies vs. People*, 122 111., 1 [3 American State Reports, 320, 321]).

"If two or more persons combine in an intent to perform a criminal act jointly, the guilt of each is the same as if he had acted alone; and the result is the same if the act is divided into parts and each person proceeds with his part unaided," (*People vs. Mather*, 4 Wendell, 229, 259; 21 American Decisions, 122.)

While the evidence shows beyond peradventure of doubt that the defendant and his companions were also guilty of the crime of robbery, as well as that of inflicting wounds, yet, by virtue of the provisions of article 89 of the Penal Code, it is the duty of the court to impose the penalty corresponding to the more serious crime which in this case is that of homicide. Article 89 of the Penal Code provides:

"The provisions of the foregoing article are not applicable to a case in which a single act should constitute two or more crimes, or if one of them should be a necessary means for committing the others.

"In such cases, only the penalty corresponding to the more serious crime shall be imposed in its maximum degree."

The punishment for homicide is *reclusion temporal*, and the penalty in its maximum degree is seventeen years four months and one day to twenty years. It is the judgment of this court, therefore, that the defendant be imprisoned for a period of seventeen years four months and one day of *reclusion temporal*, to suffer the subsidiary penalties mentioned in article 59 of the Penal Code, to indemnify the heirs of the said Ramirez in the sum of P1,000, to pay the said *alcalde* the sum of P17, and to pay the, costs. So ordered.

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

^[1] Not published.
