

5 Phil. 352

[G.R. No. 1036. November 25, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. REGINO VALENCIA ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

TORRES, J.:

On the 14th of July, 1902, Santiago Megino and Regino Valencia, with others, were accused by the provincial fiscal of Rizal of the crimes of abduction and assassination. The complaint states that at about 11 o'clock on the night of the 19th of March, 1901, Severino Tomas, while in the house of Pedro Teodoro, was kidnapped by Regino Valencia, Santiago Megino, Ignacio Sanchez, Dominador Aquino, Simplicio Reyes, and Melecio de la Cruz and taken to the house of Agapita Sanchez situated in Bahay Toro in the pueblo of Caloocan. After remaining there some time guarded by de la Cruz he was taken to a place near Santolan, in the pueblo of Pasig, where he was killed and buried; all of these acts being committed contrary to law.

The judge, as a result of the trial had upon this complaint, convicted Santiago Megino of the crime of sequestration and murder, sentencing him to the penalty of death; Regino Valencia was convicted of sequestration and sentenced to life imprisonment (*cadena perpetua*) and costs; the other accused, Ignacio Sanchez and Dominador Aquino, were acquitted. Proceedings were not had against Melecio de la Cruz, owing to his death prior to the filing of the complaint, nor Simplicio Reyes, because of his still being at large. (Record, p. 33.) From this sentence the accused, Valencia and Megino, appealed to this court.

In an order dated the 6th of November, 1903, the sentence appealed

from was set aside and the cause returned to the court for new trial; whereupon further evidence was taken in accordance with law, as a result of which the judge on the 29th of April, 1904, sentenced Regino Valencia and Santiago Megino to life imprisonment (*cadena perpetua*) and to indemnify the heirs of Severino Tomas in the sum, of 1,000 pesos, with accessories, and to pay the costs. From this sentence an appeal was taken to this court.

From the evidence before us it appears that Albina Flores reported to the authorities the unlawful death of her son, Severino Tomas; whereupon Francisco Martinez, a member of the police force, pursuant to orders, proceeded to investigate the alleged crime. The result of this investigation appears in a resume or memorandum, pages 45 to 50 of the record. This memorandum was presented by the witness at the time he testified before the judge and was read in the presence of the accused and their counsel. It appears from the memorandum that Martinez, acting upon information received by him, arrested Regino Valencia, who, being handcuffed, begged that he be given his liberty, promising to confess, as he did, that he was one of the party who kidnapped the deceased from the house of Pedro Teodoro; that upon learning that the deceased had been detained several days in the house of one Pita, who turned out to be Agapita Sanchez, Martinez went to the house and was informed by Agapita that the said party consisted of Dominador Aquino, Melecio de la Cruz, Santiago Megino, and Regino Valencia, although Agapita Sanchez in her testimony denied the statement made by Martinez.

Upon a rehearing of the case Francisco Martinez testified under oath that the memorandum presented by him in court was correct, and that the statements contained therein were made ,to him by Regino Valencia, Ignacio Sanchez, Melecio de la Cruz, and the witness Martin Jose” in the cuartel of the Constabulary; that Melecio de la Cruz, after his arrest, confessed that Regino Valencia, Simplicio Reyes, and himself had seized Severino Tomas by order of Santiago Megino and kept him in the house of Agapita Sanchez, who made a statement to this effect in the house of the parents of the deceased in the presence of Pablo del Rosario and Pablo Reyes. Albino Flores and Anastasio Tomas, parents of the deceased, corroborated this statement, adding that they learned of

the death of their son from Martin Jose”, and that when Agapita Sanchez narrated the occurrence before Francisco Martinez in their house Pablo del Rosario and Pablo Reyes were also present.

Martin Jose” stated that he was captured in Bagong-bantay by Santiago Megino and taken to the latter’s camp, it being claimed that he was a corporal of the secret police; that at the same time Severino Tomas was also brought into the camp by Simplicio Reyes, Regino Valencia, Melecio de la Cruz, and others unknown to him; that he was brought before Severino Tomas for identification by the latter as a corporal of the secret police, and was by him identified as such. Santiago Megino then sentenced them to death, whereupon they were blindfolded and taken to a place about an hour’s walk distant, where they arrived about sunset and were made to kneel. He then heard blows with bolos inflicted upon his companion, and when the bandage was removed from his eyes he saw that Tomas was lying dead in a large open grave; that about 8 o’clock in the evening he was again brought before Santiago Megino, who, after conferring with the guards there, warned him, under threat of death, to say nothing of what had occurred. From the testimony of this witness it is inferred that he was set at liberty, because several months later, at the request of an inspector of Constabulary, he assisted the latter in trying to locate the grave in which the deceased had been buried, but they were unable to find it.

The unlawful killing of Severino Tomas, fully proved in this case, constitutes the crime of murder as defined and punished in article 403 of the Penal Code, it having been committed with the qualifying circumstance of treachery, in that means, methods, or forms were employed by the accused to especially insure the execution of the crime without risk to the persons of the accused arising from the defense the deceased might have made. The deceased was on his knees, blindfolded, and completely defenseless. It will be noticed from the testimony in the case that the object of the sequestration was to commit the crime of murder.

There is sufficient proof in the case that Santiago Megino ordered the killing of the deceased, and that such order was executed by

several individuals in the presence of the witness Martin Jose, who testified that he heard the order given; that, although he was blindfolded, he heard the blows with bolos inflicted upon the deceased, and that when the bandage was removed from his eyes he saw the dead body of Severino Tomas, with many wounds, lying on its side in an open grave. This statement was corroborated by the testimony of Francisco Martinez, the policeman who, pursuant to orders from his superior, proceeded to investigate the charges made by the deceased's mother, and obtained from Regino Valencia, Ignacio Sanchez, and Melecio de la Cruz, when arrested, a statement as to the details thereof. The testimony of Martinez was also corroborated by the parents of the deceased, who testified as to the latter's detention for several days prior to his death in the house of Agapita Sanchez, guarded by his captors. Agapita, however, retracted in court her former statement made in the presence of the policeman and the parents of the deceased. It was never discovered who were the unknown persons that killed the deceased.

The evidence also discloses that Regino Valencia was an accomplice in the murder, he having been one of the party that kidnapped the deceased, who, after being detained for several days in the house of Agapita Sanchez, was brought before Santiago Megino, who ordered his execution. It does not appear that Regino Valencia was one of the party who executed this order, and therefore he can not properly be considered as a principal under article 13 of the code. He cooperated in the sequestration of the deceased, thus facilitating the commission of the crime intended, by the principal. He is therefore guilty as an accomplice.

No aggravating or extenuating circumstances attended the commission of the crime. The penalty must therefore be imposed in its medium degree.

For the foregoing reasons we are of opinion that Santiago Megino should be sentenced to life imprisonment (*cadena perpetua*), with the accessories provided in paragraphs 2 and 3 of article 54 of the code; that Regino Valencia should be sentenced to fourteen years and eight months' imprisonment (*cadena temporal*), with the

accessories referred to in article 56 of the code; that Megino should indemnify the heirs of the deceased in the sum of P1,000, and, in case of Megino's insolvency, his accomplice, Regino Valencia, shall be subsidiarily liable, each to pay one-fourth of the costs in the first instance and one-half of those incurred in this court. The sentence of the trial court, thus modified, is affirmed.

Let the case be remanded to the court below with a certified copy of this decision and of the final judgment to be entered herein for its execution. So ordered.

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