

34 Phil. 242

[ G.R. No. 11000. March 14, 1916 ]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VALERIO MENDIETA,  
DEFENDANT AND APPELLANT.**

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

**JOHNSON, J.:**

This defendant was charged with the crime of assassination. The complaint alleged:

“That the said accused Valerio Mendieta, on or about the 22d of February, 1914, in the municipality of Cauayan, Isabela, did, willfully, unlawfully, treacherously and criminally, assault Pedro Acierto with a lance, thereby causing him a serious wound in the left side, as a result of which the said Pedro Acierto died. An act committed with violation of law.”

The defendant was first arrested, taken before a justice of the peace and given a preliminary examination, at the close of which the justice of the peace found from the evidence that there was probable cause for believing that the defendant was guilty of the crime charged and held him for trial in the Court of First Instance.

Upon the above complaint the defendant was brought to trial in the Court of First Instance of the Province of Isabela; he was duly arraigned, pleaded not guilty, was tried, found guilty of the crime of assassination, with the qualifying circumstance of treachery, with the mitigating circumstance of having executed the crime in vindication of an offense committed against him by one Hilario Lauigan, and was sentenced to be imprisoned for a period of seventeen years four months and one day of *cadena temporal*, with the accessory penalty provided for in article 56 of the Penal Code, to indemnify the heirs of the deceased in the sum of ₱1,000, and to pay the costs. From that sentence the defendant appealed to this court. The only question presented by the appellant is one of fact. The appellant, through

his attorney *de officio*, attempts to show that the evidence adduced during the trial of the cause was not sufficient to show, beyond a reasonable doubt, that he was guilty of the crime charged.

The Attorney-General, in a very interesting and carefully prepared brief, reached the conclusion that the defendant was guilty of the crime charged in the complaint, with the qualifying circumstance of treachery, without any mitigating circumstances, and recommended that the decision of the lower court be modified, and that he be sentenced with the penalty of *cadena perpetua*, with the accessory penalties provided for by law, to indemnify the heirs of the deceased in the sum of ₱1,000 and to pay the costs.

From an examination of the record we find certain facts which stand undisputed:

First. That on the 22d day of February, 1914, the defendant, the deceased Pedro Acierto, Hilario Lauigan, together with many others, were in a cockpit in the barrio of Barringin, municipality of Cauayan, Province of Isabela.

Second. That while said parties were in said cockpit a quarrel arose concerning a bet made on certain fighting roosters between a number of persons present, especially between the defendant Valerio Mendieta and Hilario Lauigan. The proof does not show positively that the deceased, Pedro Acierto, was in any way whatever connected with said quarrel.

Third. That some time after said quarrel took place in the cockpit, Pedro Acierto, together with others, left the cockpit for the purpose of returning to their respective homes; that soon after Pedro Acierto and his companions had left the cockpit and while they were yet within a few yards of the cockpit, the defendant, Valerio Mendieta, rushed up behind him and stabbed him in the back with a lance, which lance penetrated his body and entered his intestines, as a result of which wound Pedro Acierto died on the 17th of March, 1914.

The defendant makes a feeble effort to show that the wound which he caused to Pedro Acierto was caused in defending himself. He also attempts to show that the wound which he inflicted upon Pedro Acierto was intended for Hilario Lauigan.

The first contention of the defendant, that he injured Pedro Acierto in self-defense, in our opinion, is not supported by the record. Two or three witnesses were present and saw him

inflict the wound upon Pedro Acierto. No offense had been offered by Pedro Acierto to the defendant, neither did he offer any resistance to the attack of the defendant upon him. In fact the record shows that Pedro Acierto did not know that he was being pursued by the defendant at the time the mortal wound was inflicted. Even admitting that the defendant intended to injure Hilario Lauigan instead of Pedro Acierto, even that, in view of the mortal wound which he inflicted upon the latter, in no way could be considered as a relief from his criminal act. That he made a mistake in killing one man instead of another, when it is proved that he acted maliciously and willfully, cannot relieve him from criminal responsibility. Neither do we believe that the fact that he made a mistake in killing the wrong man should be considered as a mitigating circumstance. We are therefore of the opinion that the recommendation of the Attorney-General should be followed.

After a careful examination of the record, we are of the opinion that the record shows beyond a reasonable doubt that the defendant is guilty of the crime charged, with the qualifying circumstances of treachery and that there were no mitigating circumstances attending the commission of the crime. For that reason the judgment of the lower court should be modified and the defendant should be sentenced to be imprisoned with the penalty of *cadena perpetua*, with the accessory penalties provided for by law, to indemnify the heirs of the deceased in the sum of ₱1,000 and to pay the costs. So ordered.

*Torres, Moreland, Trent, and Araullo, JJ., concur.*