

[G. R. No. 19605. December 19, 1922]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
DONATO BASCOS, DEFENDANT AND APPELLANT.**

D E C I S I O N

MALCOLM, J.:

The accused Donato Bascos was charged in an information filed in the Court of First Instance of Pangasinan with the murder of Victoriano Romero. On arraignment, he entered a plea of not guilty. The proof for the prosecution established that the accused was the one who had killed Victoriano Romero, while the latter was sleeping. The defense was that of insanity. Following the conclusion of the trial, the rpresiding judge rendered judgment finding the accused guilty of the crime of homicide, and sentencing him to seventeen years, four months, and one day of *reclusion temporal*, with the accessory penalties, to indemnify the heirs of Victoriano Romero in the sum of P1,000, and to pay the costs, provided, however, that the execution of the sentence should be suspended in accordance with article 100 of the Penal Code, and the accused placed in a hospital for the insane, there to remain until such time as his mental condition shall be determined.

The errors assigned in this court are to the effect that the trial court erred in making application to the present case of the provisions of article 100 of the Penal Code, and in not making-application of article 8 of the Code. The Attorney-General reaches practically the same conclusion as counsel for the appellant. It is, therefore, for us to determine if the plea of insanity is sustainable under article 8, paragraph 1, of the Penal Code, or if the case falls under article 100 of the Code.

The responsibility of the insane for criminal action has been the subject of discussion for centuries. Some criminologists, psychiatrists, and lawyers have contended with much earnestness that the defense of insanity should be done away with completely. Indeed, in at least one State of the American Union, that of the State of Washington, the Legislature has

passed a statute abolishing insanity as a defense.

In the Philippines, among the persons who are exempted from criminal liability by our Penal Code, is the following:

“An imbecile or lunatic, unless the latter has acted during a lucid interval.

“When the imbecile or lunatic has committed an act which the law defines as a grave felony, the court shall order his confinement in one of the asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court,” (Art, 8-1.)

Article 100 of the Penal Code applies when the convict shall become insane or an imbecile after final sentence has been pronounced.

In reference to the burden of proof of insanity in criminal cases, where the defense of insanity is interposed, a conflict of authority exists. At least, all the authorities are in harmony with reference to two fundamental propositions: First, that the burden is on the prosecution to prove beyond a reasonable doubt that the defendant committed the crime; and secondly, that the law presumes every man to be sane. The conflict in the decisions arises by reason of the fact that the courts differ in their opinion as to how much evidence is necessary to overthrow this original presumption of sanity, and as to what *quantum* of evidence is sufficient to enable the court to say that the burden of proving the crime beyond a reasonable doubt has been sufficiently borne. (14 R. C. L., 624.)

The rather strict doctrine “that when a defendant in a criminal case interposes the defense of mental incapacity, the burden of establishing that fact rests upon him,” has been adopted in a series of decisions by this court. (U. S. vs. Martinez [1916], 34 Phil., 305; U. S. vs. Hontiveros Carmona [1910], 18 Phil., 62.) The trial judge construed this to mean that the defense must prove that the accused was insane at the very moment the crime was committed.

Not attempting, therefore, further elucidation of the authorities, we find it more practicable to dispose of this case on the facts. The wife of the accused and his cousin testified that the accused had been more or less continuously out of his mind for many years. Doctor Gonzalo Montemayor, assistant district health officer, who, by order of the judge, examined the accused and conducted an investigation, found that the accused is a violent maniac, and

that from the information he had received from the neighbors of the accused, the latter had been insane for some time. The physician expressed the opinion that the accused was probably insane when Victoriano Romero was killed. The official declaration of Doctor Montemayor in his capacity as acting district health officer was "that this accused, according to a physical examination and investigation, is a violent maniac, and that this mental state has continued through many years, constituting a danger both for himself and for the community." The total lack of motive of Bascos to kill Romero bears out the assumption that the former was insane.

We are convinced that the accused was a lunatic when he committed the grave felony described in the record and that consequently he is exempt from criminal liability, and should be confined in an insane asylum.

In conformity with the recommendation of the Attorney-General, judgment is reversed, and the defendant acquitted, with costs of both instances *de officio*; but the defendant shall be kept in confinement in the San Lazaro Hospital, or such other hospital for the insane as the Director of Health may direct, and shall not be permitted to depart therefrom without the prior approval of the Court of First Instance of the Province of Pangasinan. So ordered,

Araullo, C. J., Street, Avanceña, Viliamor, Ostrand, Johns, and Romualdez, JJ., concur.