

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
JUAN DE LOS SANTOS, DEFENDANT AND APPELLANT.***G.R. No. L-2405. March 31, 1950*

Ponente: OZAETA, J.

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Appellant was charged with and convicted of parricide or having killed his wife, Mercedes Grospe.

He pleaded guilty to the information but took the witness stand to establish mitigating circumstances. After declaring that he killed his wife on the evening of August 26, 1946, because he caught her in the act of adultery with one Asuerto Soncuan, the court ordered that his plea of guilty be withdrawn and that a plea of not guilty be entered, and required the prosecution to present its evidence.

The prosecution proved the following facts by the testimony of several witnesses:

The spouses Juan de los Santos, 30, and Mercedes Grospe, 35, who were childless, lived in their house in the barrio of Tres Reyes, municipality of Santiago, Isabela, together with Felicisimo Grospe, brother of Mercedes, and his wife Pelisa Siembre. They had as their closest neighbor Alfredo Grospe, another brother of Mercedes, and farther away but nearer Alfredo's house was that of Asuerto Soncuan. On the morning of Monday, August 26, 1946, Felicisimo Grospe and his wife, together with Asuerto Soncuan, went to the poblacion of Santiago, 18 kilometers from the barrio of Tres Reyes, to mill their corn.

Not long before 7:30 in the evening of August 26, 1946, Alfredo Grospe called at the house of his sister Mercedes to get some viands. He found her and her husband quarreling, and after hearing what they were quarreling about, he said he withdrew and did not get the viands any more because he felt embarrassed. Mercedes wanted the accused, who had no work, to join her brother Alfredo in the business of cutting logs, but the accused resented the suggestion and asked her, "Am I a boy to be taught? Can I not find a living for me?" About 7:30 Alfredo heard his sister Mercedes scream, "Ananay!" an Ilocano expression of intense pain. Alfredo rushed to the house of his sister and saw the accused hacking Mercedes with a bolo. Frightened, Alfredo ran to the house of the barrio lieutenant, Leopoldo Tomas, for succor. Leopoldo Tomas gathered special policemen of the barrio and went to the scene of the trouble. They surrounded the house of the accused and did not dare go up because Alfredo Grospe informed Leopoldo Tomas that the rifle of Felicisimo Grospe was in the house and they were afraid the accused might shoot them. At daybreak they went up the house and found Mercedes dead with eight bolo wounds in vital parts of the body. The accused had fled.

The barrio lieutenant and his policemen instituted a hunt for the accused. A week later they met him on the road with the same bolo with which he had killed his wife. According to Leopoldo Tomas, he approached the accused and asked him, "What did you do, Uncle?" and the accused answered, "I killed your aunt because she was trying to send me away." The accused is a cousin of Leopoldo Tomas' father. Leopoldo Tomas told the accused to lay down his bolo, but instead of doing so the accused struck him with it. Leopoldo parried the blow with the shotgun he was then carrying and one of his companions, Aureliano Corpuz, shot the accused and hit his toes. Thus they

were able to subdue him and bring him to justice.

The accused again took the witness stand in his defense and testified substantially as follows: I am legally married to Mercedes Grospe, who is now dead because I killed her for having sustained illicit relations with another man, Asuerto Soncuan. Upon arriving home from the place where I worked on the farm, I found the man lying on top of my wife. I struck at him with my bolo but the blow landed on my wife because he jumped out of the house. "At the moment I saw that the man was making the coitus movement, I raised up my bolo to slash Soncuan, but it so happened that the bolo landed on my wife and Soncuan jumped out."

No other witness testified for the defense. In the prosecution proved by the testimony of Felicísimo Grospe, Asuerto Soncuan, and Justo Gonzaga that on the night in question Asuerto Soncuan was with Felicísimo Grospe and the latter's wife in the poblacion of Santiago, where they had gone to have their corn milled at the mill of a Chinaman, and that they did not return to the barrio of Tres Reyes until the following morning, when on their way home they met Justo Gonzaga, who informed them that Mercedes Grospe had been killed by her husband Asuerto Soncuan, 21, single, emphatically denied having ever had any illicit relation with the deceased.

After a careful perusal of the evidence, we are thoroughly convinced that the trial judge did not err in not believing the story of the accused. It is inherently incredible. If, as the accused said, upon entering the sala of his house he surprised Soncuan on top of his wife in the act of carnal intercourse and that he immediately struck him with a bolo, it is difficult to believe that the supposed adulterer could have escaped unhurt. Moreover, the fact that after killing his wife the accused fled and hid himself from the authorities instead of presenting himself to them and denouncing the supposed adulterer and the further fact that he resisted arrest and had to be subdued by force, are not compatible with his innocence. There is no reason to doubt the testimony of appellant's nephew Leopoldo Tomas to the effect that appellant told him that he had killed his wife because she was trying to drive him away from the conjugal home. We find from the evidence that the killing arose out of a quarrel between the spouses.

The crime of parricide is penalized by article 246 of the Revised Penal Code with reclusion perpetua to death. The trial court considered in favor of the accused two mitigating circumstances—provocation and obfuscation—and imposed a penalty one degree lower than that of reclusion perpetua to death. That is error. Article 63 provides in part that when the penalty prescribed by law is composed of two indivisible penalties, and the commission of the act is attended by some mitigating circumstance without any aggravating circumstance, the lesser penalty shall be applied, which in this case is reclusion perpetua. Having arisen from one and the same cause, the mitigating circumstances of provocation and obfuscation cannot be considered as two distinct and separate circumstances but should be treated as only one.

Modifying the sentence appealed from, the appellant is hereby sentenced to suffer reclusion perpetua, to indemnify the heirs of the deceased in the sum of P6,000, and to pay the costs.

Moran, C.J., Pablo, Bengzon, Padilla, Tuason, and Reyes, JJ., concur.

MORAN, C. J.:

I hereby certify that Mr. Justice Montemayor, who is now in Baguio, took part in the consideration of this case and voted to impose the penalty of reclusion perpetua against the appellant.

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