

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. MARIANO TENORIO ALIAS MAGIN, DEFENDANT.*G.R. No. L-15478. March 30, 1962*

Ponente: PADILLA, J.

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The death penalty having been imposed upon the defendant, his case is before the Court for review and judgment pursuant to section 9, Rule 118, of the Rules of Court.

At about 5:30 o'clock in the afternoon of 5 April 1959 in the tennis court of the plaza of Caoayan, Ilocos Sur, as a peace rally went on, Mariano Tenorio alias Magin, a 23year old fisherman, stabbed once with a 10-inch pointed bolo attorney Maximino Bello, former governor of Ilocos Sur, inflicting a chest wound which caused his death. On the same day, Leopoldo Pascua, the chief of police of Caoayan, filed in the Justice of the Peace Court a complaint charging Mariano Tenorio alias Magin with the crime of murder for the death of attorney Maximino Bello (crim. case No. 530). On 10 April 1959 the accused waived in writing his right to a preliminary investigation and would enter his plea in the Court of First Instance of Ilocos Sur; whereupon, the Justice of the Peace Court of Caoayan forwarded the case to the Court of First Instance. On 15 April 1959 the provincial fiscal Juvenal K. Guerrero filed an information charging Mariano Tenorio alias Magin with the crime of murder attended by the qualifying circumstance of evident premeditation and two aggravating circumstances, namely, treachery and contempt of or insult to public authorities (crim. case No. 3598).

On 16 April 1959, the day set for his arraignment, Mariano Tenorio alias Magin appeared without a lawyer. So, before arraignment the Court asked him whether he desired to have an attorney de oficio. The Court appointed attorney Loreto Roldan as counsel de oficio after the defendant had expressed his desire to have one. To afford the accused and his counsel an opportunity to confer with each other, the Court continued the arraignment to 11:55 o'clock a.m. At the resumption of the arraignment, attorney de oficio Loreto Roldan stated that after full explanation of the gravity of the offense charged and the penalty that could be imposed on him the defendant was willing to enter a plea of guilty, but prayed that, together with such plea, the mitigating circumstance of voluntary surrender be taken into consideration. As voluntary surrender had to be proved on the same day and the next day, the Court heard the evidence to establish it. After hearing or trial, on 20 April 1959 the Court ruling that—

x x x the accused is not entitled to the mitigating circumstance of voluntary surrender. The accused did not surrender voluntarily. He was cornered inside the fenced tennis court by two policemen one chasing him from behind and the other whom he met face to face. Thus, the accused had no other alternative but to throw away the murderous weapon and submit to the authorities.

rendered judgment as follows:

WHEREFORE, the Court finds the accused Mariano Tenorio alias Magin guilty of murder qualified by evident premeditation defined and penalized under Article 248 of the Revised Penal Code. In the commission of the crime, the aggravating circumstances of treachery and that the offense was committed in contempt of or with

insult to the public authorities—ironically during a peace rally—are present. However, one of these aggravating circumstances is compensated by the plea of guilty made by the accused. As there is one more remaining aggravating circumstance, the maximum penalty prescribed by law should be imposed. Therefore, the Court is constrained to sentence, as it hereby sentences, the accused Mariano Tenorio alias Magin to suffer the supreme penalty of death, with the accessory penalties prescribed by law, and to pay the costs.

No amount of indemnity is provided in the decision as the right to file a civil action has been reserved.

x x x

After plunging the bolo into the victim's chest, the defendant ran toward the west in the middle aisle between the rows of benches (Exhibit A). Then he ran northward toward the bamboo fence of the tennis court facing the municipal building. Upon reaching a point about four meters from the north-and-west corner of the fence, he saw patrolman Isidro Cadaoas, a witness for the defendant, who, coming from the municipal building, had just gone over the fence. Immediately, the defendant threw away his bolo and raised his two hands. Patrolman Cadaoas then drew his revolver. At that moment, patrolman Eduardo Quatchon with drawn gun was about four meters behind the defendant.

The finding that the defendant "did not surrender voluntarily," because "he was cornered inside the fenced tennis court by two policemen one chasing him from behind and the other whom he met face to face," cannot be sustained, because while running away from where he stabbed the deceased up to the point near the bamboo fence where he met patrolman Cadaoas, the defendant did not look or turn his face back, so that he did not know that patrolman Eduardo Quatchon was chasing him. That the accused did not look back was testified to by patrolman Quatchon himself, a rebuttal witness for the prosecution. In fact, even patrolman Isidro Cadaoas also did not notice that patrolman Quatchon was running after the defendant as the people at the rally scampered. If the defendant wanted to run away or escape, he would not have run to the municipal building among many people who could easily have stopped and subdued him, but even instinctively he could have run toward the southeast opening of the fence, on the south of the stage, thereby avoiding the crowd of people who attended the rally. Also the fact that on seeing patrolman Cadaoas who had not even drawn his gun the defendant threw away his bolo, raised his two hands, offered no resistance and said to the patrolman "here is my bolo, I stabbed Atty. Bello," is indicative of his intent or desire to surrender voluntarily to the authorities.

The claim that the aggravating circumstance of contempt of or insult to public authorities did not attend the commission of the crime is without merit. A public peace rally was going on at the place where the defendant stabbed attorney Maximino Bello. Many people were present. Among the public authorities present were Acting Provincial Governor Manuel Villanueva, Mayor Isidoro Querubin of Caoayan, Judge Antonio Quirino and municipal secretary Benjamin Quindipan. All these were seated on an elevated stage easily seen or viewable by the public. The place of the rally and of the crime was a public plaza, directly opposite the municipal building of Caoayan. The defendant's denial that public authorities were there present cannot be accepted. Moreover, a plea of guilty is an admission of the aggravating circumstances alleged in the information.

The defendant must be credited with two mitigating circumstances, to wit: plea of guilty and voluntary surrender. As these two offset the two aggravating circumstances of treachery and contempt of or insult to public authorities alleged in the information, the penalty for the crime of murder for which the defendant is responsible must be imposed in its medium period.

THEREFORE, pursuant to article 248 in relation to article 64 of the Revised Penal Code, the judgment under review is modified and the defendant Mariano Tenorio alias Magin is sentenced to reclusion perpetua, the accessories of the law, with costs.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and De Leon, JJ., concur.
Reyes, J.B.L., J., took no part.

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