

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ESTEBAN PASIS, DEFENDANT AND APPELLANT.

G.R. No. No. 22625. November 15, 1924

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

The complaint which initiated these proceedings is as follows:

"That on or about the 6th day of February, 1922, in the municipality of Bucay, Province of Abra, Philippine Islands, the said accused willfully, unlawfully, and feloniously with intent to kill, and with treachery assaulted and attacked Fernando Bobiles, Dionisia Bobiles and Rufina Bobileis while they were asleep an their1 home, by striking them with, a deadly weapon, to wit: a bolo, thereby inflicting serious wounds on the person of Fernando Bobiles, thus performing all the acts of execution which should have produced the crime of murder as a consequence, but nevertheless did not produce it by reason of causes independent of his will; that is, by the timely and able medical assistance rendered to said Fernando Bobiles which has prevented his death, and also various injuries on the different parts of the bodies of Dionisia Bobiles and Rufina Bobiles, which have required medical attendance for a, period of more than five days, and incapacitated the said Dionisia Bobiles and Rufina Bobiles from engaging in their customary labor for the same period of time.

"That besides the aggravating circumstance of treachery, there were also present in the commission of this crime, the aggravating circumstances of nocturnity and the employment of means to insure and afford immunity.

"Contrary to law."

The accused demurred to this complaint on the ground that it changed more than one crime. The trial court overruled the demurrer and the accused excepted.

After due trial of the cause judgment was rendered sentencing the accused to fourteen years, eight months and one day cadena temporal, with the accessories of the law and the costs.

The appellant assigns as error committed by the trial court, among others, the overruling of this demurrer.

The Attorney-General, as well as ourselves, finds merit in this exception of the accused, because the complaint alleges that the latter attacked separately, and in different acts, each of the three offended parties, and the different criminal acts thus committed cannot be considered to constitute a complex crime, or different crimes, some of which were the means of committing the others.

Objection to the complaint having been duly entered, the latter cannot be sustained (sec. 11, General Orders No. 58); and the demurrer not having been sustained, nor the prosecution ordered to elect the crime on which it insists, or that the complaint be amended, the judgment appealed from must be reversed.

Therefore, the judgment appealed from is reversed and the record is ordered remanded to the court of origin with instructions to sustain the demurrer filed by the appellant, and it is ordered that the prosecuting attorney amend

the complaint or state the crime on which he insists, and to proceed with the cause in the usual manner. So ordered.

Street, Malcolm, Avancena, Villamor, Ostrand, and Johns, JJ., concur.

Judgment reversed and case remanded with instructions.

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