

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTERO MUTYA, DEFENDANT-APPELLANT.

G.R. No. L-11255-11256. September 30, 1959

Ponente: PARAS, C.J.

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PARAS, C.J.:

Review of a judgment of the Court of First Instance of Lanao, finding defendant guilty of the crimes of murder and frustrated murder and sentencing him to suffer the penalty of death.

DECISION

The appellant was convicted of the crimes of murder and frustrated murder by the Court of First Instance of Lanao, after having arrived at the following conclusions.

"x x x it appears established, beyond reasonable doubt, that on the date at the place stated in the information in these two criminal cases, the accused, Antero Mutya, forced his entrance into the house of the deceased Victoria Uayan Vda. de Jacquilmae at Mago-ong, Municipality of Kauswagan, Lanao, which entrance was affected by a way not intended for the purpose because the same was gained thru a hole which he made in the wall of the kitchen thereof, armed with a deadly weapon, the .45 caliber automatic pistol, Exhibit "H", which he successfully did by taking advantage of the darkness of the night, and, by means of treachery, shot and wounded the offended party Angel Paglinawan in criminal Case No. 1848, which could have caused the death of the latter were it not for the timely and able medical assistance rendered to the latter (Exhibit "O"), and shot (the deceased) Victoria Vda. de Jacquilmae, as consequence of which she died instantaneously (Exhibits "L" and "E")."

Appellant admits having Victoria Uayan and having shot Angel Paglinawan, but claims that the crimes he had committed were merely homicide and frustrated homicide, because there was no qualify circumstance to raise them to the crimes of which he was found guilty. Accordingly to him, there was no treachery because he was face to face with the victims when he shot them; and that there could have been no evident premeditation considering that previous to the commission of the crime, he was seeking to have a reconciliation with the deceased Victoria. Upon the other hand, appellant urges the consideration of several mitigating circumstances in his favor; namely, lack his voluntary surrender, lack of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation.

Refuting all of appellant's pretensions, the lower court correctly found him guilty of the crimes charged. There was treachery. Appellant himself admitted that he surreptitiously affected an entrance into the house of Victoria Uayan bu forcibly opening a hole in the floor under the stove in the kitchen; that he hie behind the curtain that hang on the door separating the dining room from the sala; that he suddenly emerged therefrom and, without any warning, fired at Angel Paglinawan who had just turned about after closing the door in the sala loading out of the house; and that he shot Victoria Uayan who was taken unaware and whose arms were raised.

Evident premeditation is conclusive from the fact that in the afternoon of July 22, 1955, when he and the deceased

Victoria quarreled and the latter slapped him, he threatened to kill her with a hunting knife. From that afternoon until the time of the killing that occurred in the evening of the following day, there transpired a considerable space of time within which he could have meditated and reflected on his evil design. And as a matter of fact, he executed his plan by clandestinely gaining entrance into the deceased's house.

The circumstance of unlawful entry also properly taken against appellant because he stealthily gained entrance into the house by forcibly opening a hole in the floor in the kitchen, and the circumstance of dwelling, because the house where the killing took place belonged exclusively to the victim Victoria, altho it was shown that previously they had been living there together as husband and wife for two years, it appearing however that he and the deceased had never been married and at the time of the shooting, they had already separated.

We cannot extend to appellant any of the mitigating circumstances he seeks. There could have been no voluntary surrender in view of the fact that he went into hiding after having committed the crimes and refused to surrender to the proper authorities without having first conferred with councilor Antonio. There could have been no lack of intention to kill because there were three shots that were mercilessly fired into the vital parts of the body of the deceased. There can be no mitigation arising from passion or obfuscation, because to be considered, this sentiment must arise from legitimate feelings. Lack of education and instruction cannot mitigate appellant's guilt because to kill is forbidden by natural law which every rational being is endowed to know and feel.

As recommended by the Office of the Solicitor General, the penalty that should be imposed on the appellant for the murder of Victoria Uayan is death, since the aggravating circumstance of dwelling ought to be considered, having been alleged in the information and proved during the trial. Nevertheless, as there are no sufficient votes to impose the supreme penalty of death, appellant's sentence to suffer reclusion perpetua is affirmed.

Wherefore, the decision appealed from is hereby affirmed in all respects with costs. So ordered.

Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia Barrera, and Gutierrez David, JJ., concur.

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