

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JULIO GUILLEN Y CORPUS, DEFENDANT AND APPELLANT.

*G.R. No. L-1477. January 18, 1950*

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### PER CURIAM:

This case is before us for review of, and by virtue of appeal from, the judgment rendered by the Court of First Instance of Manila in case No. 2764, whereby Julio Guillen y Corpus, or Julio C. Guillen, is found guilty beyond reasonable doubt of the crime of murder and multiple frustrated murder, as charged in the information, and is sentenced to the penalty of death, to indemnify the heirs of the deceased Simeon Varela (or Barrela) in the sum of P2,000.00 and to pay the costs.

Upon arraignment the accused entered a plea of not guilty to the charges contained in the information.

Then the case was tried in one of the branches of the Court of First Instance of Manila presided over by the Honorable Buenaventura Ocampo who, after the submission of the evidence of the prosecution and the defense, rendered judgment as above stated.

In this connection it should be stated that, at the beginning of the trial and before arraignment, counsel de oficio for the accused moved that the mental condition of Guillen be examined. The court, notwithstanding that it had found out from the answers of the accused to questions propounded to him in order to test the soundness of his mind, that he was not suffering from any mental derangement, ordered that Julio Guillen be confined for a period of about 8 days in the government Psychopathic Hospital, there to be examined by medical experts who should report their findings accordingly. This was done, and, according to the report of the board of medical experts, presided over by Dr. Fernandez of the National Psychopathic Hospital, Julio Guillen was not insane. Said report (Exh. "L"), under the heading "Formulation and Diagnosis," at pages 13 and 14, reads:

#### "FORMULATION AND DIAGNOSIS

"Julio C. Guillen was placed under constant observation since admission. There was not a single moment during his whole 24 hours daily, that he was not under observation.

"The motive behind, the commission of the crime is stated above. The veracity of this motivation was determined in the Narco-synthesis. That the narco-synthesis was successful was checked up the day after the test. The narco-synthesis proved not only that Julio C. Guillen was telling us the truth, but also did not reveal any conflict or complex that may explain a delusional or hallucinatory motive behind the act.

"Our observation and examination failed to elicit any sign or symptom of insanity in Mr. Julio C. Guillen. He was found to be intelligent, always able to differentiate right from wrong, fully aware of the nature of the crime he committed and is equally decided to suffer for it in any manner or form.

"His version of the circumstances of the crime, his conduct and conversation relative thereto, the motives, temptations and provocations that preceded the act, were all those of an individual with a sound mind.

"On the other hand he is a man of strong will and conviction and once arriving at a decision he executes,

irrespective of consequences and as in this case, the commission of the act at Plaza Miranda.

"What is of some interest in the personality of Julio C. Guillen is his commission of some overt acts. This is seen not only in the present instance, but sometime when an employee in La Clementina Cigar Factory he engaged in a boxing bout Mr. Monzano, a Spaniard, one of the managers of the factory because Mr. Monzano wanted to abuse the women cigar makers, and felt it his duty to defend them. One time he ran after a policeman with a knife in hand after being provoked to a fight several times. He even challenged Congressman Nueno to a fight sometime before when Mr. Uueno was running for a seat in the Municipal Board of the City of Manila, after hearing him deliver one of his apparently outspoken speeches.

"All these mean a defect in his personality characterized by a weakness of censorship especially in relation to rationalization about the consequences of his acts.

"In view of the above findings it is our considered opinion that Julio C Guillen is not insane "but is an individual with a personality defect which in Psychiatry is termed, Constitutional Psychopathic Inferiority.

"Final Diagnosis

"Not insane: Constitutional Psychopathic Inferiority, without psychosis."

In view of the above-quoted findings of the medical board, and notwithstanding the contrary opinion of one Dr. Alvarez, who was asked by the defense to give his opinion on the matter, the court ruled that Guillen, not being insane, could be tried, as he was tried, for the offenses he committed on the date in question.

### THE FACTS

Upon careful perusal of the evidence and the briefs submitted by counsel for the accused, the Solicitor General and their respective memoranda, We find that there is no disagreement between the prosecution and the defense, as to the essential facts which caused the filing of the present criminal case against this accused. Those facts may be stated as follows:

On the dates mentioned in this decision, Julio Guillen y Corpus, although not affiliated with any particular political group, had voted for the defeated candidate in the presidential elections held in 1946, Manuel A. Roxas, the successful candidate, assumed the office of President of the Commonwealth and subsequently President of the Philippine Republic. According to Guillen, he became disappointed in President Roxas for his alleged failure to redeem the pledges and fulfill the promises made by him during the presidential election campaign; and his disappointment was aggravated when, according to him, President Roxas, instead of looking after the interest of his country, sponsored and campaigned for the approval of the so-called "parity" measure. Hence he determined to assassinate the President.

After he had pondered for some time over the ways and means of assassinating President Roxas, the opportunity presented itself on the night of March 10, 1947, when at a popular meeting held by the Liberal Party at Plaza de Miranda, Quiapo, Manila, attended by a big crowd, President Roxas, accompanied by his wife and daughter and surrounded by a number of ladies and gentlemen prominent in government and politics, stood on a platform erected for that purpose and delivered his speech expounding and trying to convince his thousands of listeners of the advantages to be gained by the Philippines, should the constitutional amendment granting American citizens the same rights granted to Filipino nationals be adopted.

Guillen had first intended to use a revolver for the accomplishment of his purpose, but having lost said firearm, which was duly licensed, he thought of two hand grenades which were given him by an American soldier in the early days of the liberation of Manila in exchange for two bottles of whiskey. He had likewise been weighing the

chances of killing President Roxas, either by going to Malacanang, or following his intended victim in the latter's trips to the provinces, for instance, to Tayabas (now Quezon) where the President was scheduled to speak, but having encountered many difficulties, he decided to carry out his plan at the pro-parity meeting held at Plaza de Miranda on the night of March 10, 1947.

On the morning of that date he went to the house of Amado Hernandez whom he requested to prepare for him a document (Exh. "B"), in accordance with their previous understanding in the preceding afternoon, when they met at the premises of the Manila Jockey Club on the occasion of an "anti-parity" meeting held there. On account of its materiality in this case, we deem it proper to quote hereunder the contents of said document. An English translation (Exh. "B-2") from its original in Tagalog reads:

### **"FOR THE SAKE OF A FREE PHILIPPINES**

"I am the only one responsible for what happened. I conceived it, I planned it, and I carried it out all by myself alone. It took me many days and nights pondering over this act, talking to my own conscience, to my God, until I reached my conclusion. It was my duty.

"I did not expect to live long; I only had one life to spare. And had I expected to live much longer, had I had several lives to spare, I would not have hesitated either to sacrifice it for the sake of a principle which was the welfare of the people.

"Thousands have died in Bataan; many more have mourned the loss of their husbands, of their sons, and there are millions now suffering. Their deeds bore no fruits; their hopes were frustrated.

"I was told by my conscience and by my God that there was a man to be blamed for all this he had deceived the people, he had astounded them with too many promises with no other purpose than to entice them; he even went to the extent of risking the heritage of our future generations. For these reasons he should not continue any longer. His life would mean nothing as compared with the welfare of eighteen millions souls. And why should I not give up my life too if only for the good of those eighteen million souls.

"These are the reasons which impelled me to do what I did and I am willing to bear up the consequences of my act. It matters not if others will curse me. Time and history will show, I am sure, that I have only displayed a high degree of patriotism in the performance of my said act.

"Hurrah for a free Philippines.

"Cheers for the happiness of every Filipino home.

"May God pity on me.

"Amen.

### **"JULIO C. GUILLEN"**

A copy (Exh. "B-1") of the original in Tagalog (Exhibit B), made at the request of Guillen by his nephew, was handed to him only at about 6 o'clock in the afternoon of March 10, 1947, for which reason said Exh. "B-1" appears unsigned, because he was in a hurry for that meeting at Plaza de Miranda.

When he reached Plaza de Miranda, Guillen was carrying two hand grenades concealed in a paper bag which also contained peanuts. He buried one of the hand grenades (Exh. "D"), in a plant pot located close to the platform, and when he decided to carry out his evil purpose he stood on the chair on which he had been sitting and, from a distance of about seven meters, he hurled the grenade at the President when the latter had just closed his speech, was being congratulated by Ambassador Romulo and was about to leave the platform.

General Castañeda, who was on the platform, saw the smoking, hissing, grenade and, without losing his presence

of mind, kicked it away from the platform, along the stairway, and towards an open space where the general thought the grenade was likely to do the least harm; and, covering the President with his body, shouted to the crowd that everybody should lie down. The grenade fell to the ground and exploded in the middle of a group of persons who were standing close to the platform. Confusion ensued, and the crowd dispersed in a panic. It was found that the fragments of the grenade had seriously injured Simeon Varela (or Barrela)—who died on the following day as a result of mortal wounds caused by the fragments of the grenade (Exhibits F and "F-1)—Alfredo Eva, Jose Fabio, Pedro Carrillo and Emilio Maglalang.

Guillen was arrested by members of the Police Department about two hours after the occurrence. It appears that one Angel Garcia, who was one of the spectators at that meeting, saw how a person who was standing next to him hurled an object at the platform and-, after the explosion, ran away towards a barber shop located near the platform at Plaza de Mirandai Suspecting that that person was the thrower of the object that exploded, Garcia went after him and had almost succeeded in holding him, but Guillen offered stiff resistance, got loose from Garcia and managed to escape. Garcia pursued him, but some detectives, mistaking the former for the real criminal and the author of the explosion, placed him under arrest. In the meantime, while the City Mayor and some agents of the Manila Police Department were investigating the affair, one Manuel Robles volunteered the information that the person with whom Angel Garcia was wrestling was Julio Guillen; that he (Manuel Robles) was acquainted with Julio Guillen for the previous ten years and had seen each other in the plaza a few moments previous to the explosion.

The police operatives interrogated Garcia and Robles, and Julio Guillen was, within two hours after the occurrence, found in his home at 1724 Juan Luna Street, Manila, brought to the police headquarters and identified by Angel Garcia, as the same person who hurled towards the platform the object which exploded and -whom Garcia tried to hold when he was running away.

During the investigation conducted by the police he readily admitted his responsibility, although at the same time tried to justify his action in throwing the bomb at President Roxas. He also indicated to his captors the place where he had hidden his so-called last will quoted above and marked Exhibit B which was then unsigned by him and subsequently signed at the police headquarters.

Re-enacting the crime (Exhibit C), he pointed out to the police where he had buried (Exhibit C-1) the other hand grenade (Exhibit D), and, in the presence of witnesses he signed a statement which contained his answers to questions propounded to him by Major A. Quintos of the Manila Police, who investigated him soon after his arrest (Exhibit E). From a perusal of his voluntary statement, we are satisfied that it tallies exactly with the declarations made by him on the witness stand during the trial of this case.

## THE ISSUES

In the brief submitted by counsel de officio for this appellant, several errors are assigned allegedly committed by the trial court, namely: first, "in finding the appellant guilty of murder for the death of Simeon Varela;" second, "in declaring the appellant guilty of the complex crime of murder and multiple frustrated murder"; third, "in applying sub-section 1 of Article 49 of the Revised Penal Code in determining the penalty to be imposed upon the accused"; and fourth, "in considering the concurrence of the aggravating circumstances of nocturnity and of contempt of public authorities in the commission of the crime."

The evidence for the prosecution, supported by the brazen statements made by the accused, shows beyond any shadow of doubt that, when Guillen attended that meeting, carrying with him two hand grenades, to put into execution his preconceived plan to assassinate President Roxas, he knew fully well that, by throwing one of those two hand grenades in his possession at President Roxas, and causing it to explode, he could not prevent the

persons who were around his main and intended victim from being killed or at least injured, due to the highly explosive nature of the bomb employed by him to carry out his evil purpose.

Guillen, testifying in his own behalf, in answer to questions propounded by the trial judge (page 96 of transcript) supports our conclusion. He stated that he performed the act voluntarily; that his purpose was to kill the President, but that it did not make any difference to him if there were some people around the President when he hurled that bomb, because the killing of those who surrounded the President was tantamount to killing the President, in view of the fact that those persons, being loyal to the President, were identified with the latter. In other words, although it was not his main intention to kill the persons surrounding the President, he felt no compunction in killing them also in order to attain his main purpose of killing the President.

The facts do not support the contention of counsel for appellant that the latter is guilty only of homicide through reckless imprudence in regard to the death of Simeon Varela and of less serious physical injuries in regard to Alfredo Eva, Jose Fabio, Pedro Carrillo and Emilio Maglalang, and that he should be sentenced to the corresponding penalties for the different felonies committed, the sum total of which shall not exceed three times the penalty to be imposed for the most serious crime in accordance with article 70 in relation to article 74 of the Revised Penal Code.

In throwing hand grenade at the President with the intention of killing him, the appellant acted with malice. He is therefore liable for all the consequences of his wrongful act; for in accordance with article 4 of the Revised Penal Code, criminal liability is incurred by any person committing a felony (delito) although the wrongful act done be different from that which he intended. In criminal negligence, the injury caused to another should be unintentional, it being simply the incident of another act performed without malice. (People vs. Sara, 55 Phil. 939.) In the words of Viada, "in order that an act may be qualified as imprudence it is necessary that neither malice nor intention to cause injury should intervene; where such intention exists, the act should be qualified by the felony it has produced even though it may not have been the intention of the actor to cause an evil of such gravity as that produced." (Viada's Comments on the Penal Code, vol. 7, 5th ed., p. 7.) And, as was held by this Court, a deliberate intent to do an unlawful act is essentially inconsistent with the idea of reckless imprudence. (People vs. Nanquil, 43 Phil. 232.) Where such unlawful act is wilfully done, a mistake in the identity of the intended victim cannot be considered as reckless imprudence. (People vs. Gona, 54 Phil. 605).

The case of People vs. Mabug-at, 51 Phil. 967, cited by counsel for appellant does not support his ..contention. In that case the defendant, with intent to kill his sweetheart, fired a shot from his revolver which hit not the intended victim but the latter's niece, who was seriously wounded. The defendant in that case contended that he was guilty only of unlawful discharge of firearms with injuries, but this Court held that the act having been committed with intent to kill and with treachery, defendant was guilty of frustrated murder.

Squarely on the point raised by counsel is the following decision of the Supreme Court of Spain:

"Cuestion 62. Se presenta A, a las ocho de la noche, en el estanco de B a comprar tabaco, y habiendose negado este a darselo al fiado, se retira aquel sin mediar entre ambos disputa alguna; pero, transcurrido un cuarto de hora, hallandose el estanco despachando a C, se oye la detonacion de un arma de fuego disparada por A desde la calle, quedando muertos en el acto C y el estanco: supuesta la i no intencion en A de matar a C, y si solo al estanco, cabe calificar la muerte de este de homicidio y la de C de imprudencia temeraria?—La Sala de lo criminal de la Audiencia de Granada lo estiro asi, y condeno al procesado a catorce años de reclusion por el homicidio y a un ano de prision correccional por la imprudencia. Aparte de que la muerte del estanco debio calificarse de asesinato y no de homicidio, por haberse ejecutado con alevosia, es evidente que la muerte de C, suponiendo que no se propusiera ejecutarla el procesado, no pudo calificarse de imprudencia temeraria, sino que tambien debio declararse responsable de la misma, a tenor de lo dispuesto en

este apartado ultimo del articulo; y que siendo ambas muertes producidas por un solo hecho, o sea por un solo disparo, debio imponerse al reo la pena del delito de asesinato en el grado maximo, a tenor de lo dispuesto en el art. 90 delCodigo, o sea la pena de muerte. Se ve, pues, claramente que en la antedicha sentencia, aparte de otros articulos delCodigo, se infringio por la Sala la disposicion de este apartado ultimo del articulo muy principalmente, y asi lo declaro el Tribunal Supremo en S. de 18 de junio de 1872. (Gaceta de 1.[o] de agosto.)" (I Viada, 5th Ed., p. 42.)

Article 48 of the Revised Penal Code provides as follows:

"Art. 48. Penalty for Complex Crimes.— When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period."

We think it is the above-quoted article and not paragraph 1 of article 49 that is applicable. The case before us is clearly governed by the first clause of article 49 because by a single act, that of throwing a highly explosive hand grenade at President Roxas, the accused committed two grave felonies, namely: (1) murder, of which Simeon Varela was the victim; and (2) multiple attempted murder, of which President Roxas, Alfredo Eva, Jose Fabio, Pedro Carrillo and Emilio Maglalang were the injured parties.

The killing of Simeon Varela was attended by the qualifying circumstance of treachery. In the case of *People vs. Mabug-at*, supra, this court held that the qualifying circumstance of treachery may be properly considered, even when the victim of the attack was not the one whom the defendant intended to kill, if it appears from the evidence that neither of the two persons could in any manner put up defense against the attack, or become aware of it. In the same case it was held that the qualifying circumstance of premeditation may not be properly taken into account when the person whom the defendant proposed to kill was different from the one who became his victim.

There can be no question that the accused attempted to kill President Roxas by throwing a hand grenade at him with the intention to kill him, thereby commencing the commission of a felony by overt acts, but he did not succeed in assassinating him "by reason of some cause or accident other than his own spontaneous desistance." For the same reason we qualify the injuries caused on the four other persons already named as merely attempted and not frustrated murder.

In this connection, it should be stated that, although there is abundant proof that, in violation of the provisions of Article 148 of the Revised Penal Code, the accused Guillen has committed among others the offense of assault upon a person in authority, for in fact his efforts were directed towards the execution of his main purpose of eliminating President Roxas for his failure to redeem his electoral campaign promises, by throwing at him in his official capacity as the Chief Executive of the nation the hand grenade in question, yet, in view of the failure of the prosecution to insert in the information the appropriate allegation charging Guillen with the commission of said offense, we shall refrain from making a finding to that effect.

The complex crimes of murder and multiple attempted murder committed by the accused with the single act of throwing a hand grenade at the President, was attended by the various aggravating circumstances alleged in the information, without any mitigating circumstance. But we do not deem it necessary to consider said aggravating circumstances because in any event Article 48 of the Revised Penal Code above-quoted requires that the penalty for the most serious of said crimes be applied in its maximum period. The penalty for murder is reclusion temporal in its maximum period to death. (Art. 248) . It is our painful duty to apply the law and mete out to the accused the extreme penalty provided by it upon the facts and circumstances hereinabove narrated.

The sentence of the trial court being correct, we have no alternative but to affirm it, and we hereby do so by a unanimous vote. The death sentence shall be executed in accordance with Article 81 of the Revised Penal Code,

under authority of the Director of Prisons, on such working day as the trial court may fix within 30 days from the date the record shall have been remanded. It is so ordered.

Moran, C. J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

**MORAN C. J.:**

Mr. Justice F.R. Feria voted for the affirmance of the judgment of the lower court, but, on account of his absence at the time of the promulgation of this opinion, his signature does not appear herein.

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