

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AGRIPINO AGONCILLO AND MARIANO ADMANA, DEFENDANTS. AGRIPINO AGONCILLO, APPELLANT.

G.R. No. 10783. January 20, 1916

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10783/>

TORRES, J.:

These proceedings were commenced by an amended complaint filed by the provincial fiscal in the Court of First Instance of Batangas on September 16, 1914, charging Agripino Agoncillo and Mariano Admana with the crime of frustrated murder. On April 9, 1915, judgment was rendered whereby Agoncillo was convicted of the crime of frustrated homicide and sentenced to the penalty of six years and one day of prision mayor, to the accessory penalties, to pay to Irineo Arriola the sum of P1,800 in reimbursement of expenses incurred by him for medical treatment, and to the payment of one-half of the costs. Mariano Admana was freely acquitted, with the other one-half of the costs de officio. From this judgment Agoncillo's counsel appealed.

Some two months prior to the date when the crime in question was perpetrated, Irineo Arriola, municipal president of the pueblo of Calaca, Batangas, learned from the information and reports he had received from different persons that his wife Petra Navarro was maintaining illicit relations with her brother-in-law, Agripino Agoncillo, and on this account the husband, indignant and wrathful at his wife's unfaithfulness, addressed a letter to her paramour challenging him to a duel. To this letter, exhibited in evidence by the defense, the husband testified that no reply was made. Notwithstanding the watch the latter kept over his wife, it is certain that the adulteress and her paramour maintained private correspondence without the husband's knowledge by means of a man named Ingo, as proven by the letter Exhibit F of the prosecution, whereby it is seen that the woman must have advised Agoncillo that she was being watched by her husband, which apparently annoyed them by restraining the relations they had freely maintained up to that time.

As a result of the discovery made by the husband, Arriola, he ordered that Agoncillo's two daughters named Amparo and Remedios who had been living in Arriola's house since the death of their mother, Agoncillo's wife, should be returned to the control and the house of Agoncillo, for, up to that time, the latter, as a relative by marriage, was at complete liberty to enter and frequent the house of the offended party, Arriola, where his two daughters were living under the care of Arriola and his wife Navarro; on one occasion when Agoncillo fell sick he also remained in the house of this couple and was attended and cared for by them; but after the husband learned of the illicit relations the adulterers had been maintaining without his knowledge, the bonds of relationship and intimacy that had previously existed between the two brothers-in-law, if not completely severed, were at least slackened.

With these antecedents, in the afternoon of May 16, 1913, and when Bishop Petrelli was in the parochial building of the said pueblo of Calaca, Irineo Arriola and other residents of the town went to the said building to greet the bishop, as did likewise, among others, Agripino Agoncillo and Mariano Admana, all of whom took supper there

and left at about 8 o'clock that evening. Agoncillo and Admana went first, and a little while afterwards, Irineo Arriola. The latter as soon as he reached the street started for the municipal building for the purpose of inspecting the police service, crossing the pueblo plaza by the shortest road, and, after the inspection and while leaving the door of the municipal building, the defendants Agoncillo and Admana passed in front of him on their way to a point north of Calle Vizconde. The three men, therefore, went along together almost side by side, for the municipal president, Arriola, was going to the house of Matilde Vizconde to speak to her, but before reaching it and when they were about 40 yards from it, Arriola inquired of Agoncillo whether he was angry at him, and as he received no reply he tried to advance ahead of his two companions. Just at this moment Arriola heard a shot and, on turning his head around to look back, heard a second shot and felt a bullet in his left thigh. As a result of this wound he fell to the ground in a sitting posture and then heard two more shots, fired at him by his brother-in-law Agoncillo, who, with Admana, was walking behind him. A few moments afterwards, when the chief of police Timoteo Mendoza approached the wounded man, who was sitting on the ground, and inquired of him as to what had happened, Arriola told Mendoza that the defendant, Agoncillo, had fired four shots at him. The chief of police, therefore, started off on a run toward the north of Calle Vizconde in pursuit of the assailant and his companion.

As a result of the shots several people who lived near the scene of the occurrence were attracted to the place, among them, Jose Malabanan, Agripino Vivo, and Felix Urbano. These three latter carried the injured man in a chair to the upper floor of Matilde Vizconde's house, at her invitation, for he had fallen in the street near and almost in front of her house. When Arriola had been undressed and placed on a mat spread on the upper floor of the said house, bullet holes were found in his trousers, his coat and a handkerchief he had in his pocket, and blood-stains were discovered on his trousers. No weapon whatever was found in the possession of the injured man, nor in the place where he fell, with the exception of a round cane which was lying at his feet when he was removed from the road. The hole in the blood-stained trousers was in the part that covered the left thigh, and a circular hole with black borders was also observed in the left pocket of the coat, in which was the handkerchief, likewise pierced with two round holes. From these facts it is concluded that the bullet penetrated the coat pocket, went through the handkerchief in two places and through the trousers and wounded the victim in the thigh.

Dr. Gregorio Singian, who attended President Irineo Arriola in the San Juan de Dios Hospital of this city where the latter was brought on May 18, 1913, testified that he operated on the injured man for a wound of about 5 millimeters in diameter in the fore lateral part of the left thigh near the hip joint; that this wound was inflicted by a revolver, bullet which to judge from the comminuted fractures of the bone, such as are frequently caused by spent bullets, must have been fired from a considerable distance; that Arriola was treated in the hospital for six months before he was completely cured, being discharged therefrom on October 2, 1913, (pp. 1 and 80, record); and that his left leg was shorter than it was before, on account of a slight incurvation and shortening of the bone, a defect which probably would be permanent.

The chief of police Timoteo Mendoza immediately pursued the aggressor Agripino Agoncillo along Calle Vizconde and in spite of his ordering Agoncillo to stop, the latter continued to flee. The officer, therefore, on his arrival at the intersection of this street with that of Igualdad, discharged his revolver in the air in order to induce the fugitive to give himself up, but the chamber of the officer's revolver burst and Agoncillo succeeded in entering the schoolhouse lot. At this moment the policeman Filoteo Bobadilla came up, he having heard the shot fired and the whistle blown by his chief during the pursuit. The latter, therefore, seized Bobadilla's revolver and with it continued his search for Agoncillo, whom they soon afterwards found in the lower part of the kitchen of the said schoolhouse. The defendant, on being arrested, threw his revolver into a dark place and after he had been taken to the municipal building, where he was detained, the chief of police and the policeman Eusebio Hernandez returned to the place of the arrest in search of the revolver Agoncillo had thrown on the ground, which they found loaded,

and also a cartridge belt with cartridges. This revolver was an automatic, modern "Browning" and, with its cartridges, was exhibited at the trial. The testimony of the two aforementioned policemen accorded with that given by their chief, Timoteo Mendoza.

Jose Malabanan and Agripino Vivo, two of the three persons who, among several others, approached the offended party after he had been shot and carried him in a chair to Matilde Vizconde's house, corroborated the foregoing facts. Jose Malabanan testified that while taking a walk on the night of the crime he heard two shots fired in quick succession at a distance of about 40 brazas away and at the same time saw a man dressed in a uniform come out of an alley near by, and a few moments afterwards he heard two more shots; that on approaching the place whence they appeared to have been fired, he saw the municipal president Irineo Arriola sitting in the road bracing himself with one hand on the ground. The other witness Agripino Vivo testified that he saw Arriola walking along the said street, and behind him, Agripino Agoncillo and Mariano Admana; that a few moments afterwards he heard two shots fired in quick succession and at the same time saw Arriola stagger and fall to the ground; that after the third shot he heard Admana tell his companion Agoncillo to fire another shot because Arriola was still alive, and immediately thereafter witness heard the fourth shot; that a few moments afterwards several people, among them the witness, approached the wounded man and between them all, on the invitation of the owner, carried him to the upper story of a house near by. This witness added that Arriola was walking ahead of his assailant Agoncillo and had his back turned toward the latter, who, on firing the first shot, was 4 brazas away from the assaulted man, that when Agoncillo fired the other two shots Arriola was already seated on the ground and facing his assailant; that the chief of police Timoteo Mendoza was the first to approach and assist Arriola, who was then carrying only a cane, and that no dagger or other weapon was found on him.

Matilde Vizconde, the owner of the house in front of which the assault took place, testified that while lying awake in bed that night she heard a shot in the street; that she therefore arose and looked out of the window to see what had happened; that as it was a bright moonlight night she saw Mariano Admana, President Arriola, and Treasurer Agoncillo all standing in the street; that the latter then fired another shot, as a result of which she saw Arriola fall in a sitting posture; that thereupon, being afraid, she closed the window and immediately afterwards heard at intervals two more shots, making four in all; that, on returning to the window, she saw many people gather and, on observing that they were lifting Arriola, who was sitting on the ground, she suggested to them that they bring him into her house, which they did; and that she did not see that Arriola was then carrying any weapon.

The justice of the peace Emiliano Encarnacion testified that as soon as he learned of the occurrence he went to Matilde Vizconde's house, where he found the wounded municipal president, Arriola, and immediately thereupon took his declaration; and that the wounded man then requested witness to draw up a complaint. Witness added that Arriola was unable to sign his first declaration, as he was feeling badly, but signed his second one as he was then somewhat better; and that Arriola included in his second declaration Mariano Admana besides Agripino Agoncillo.

Timoteo Marella also testified that Arriola, while in the San Juan de Dios Hospital, wrote witness a letter in which he requested him to look for his (Arriola's) watch in the place where the patient had been in the habit of keeping it; that in searching for it in Arriola's wardrobe, though he did not find the watch, he did find the letter Exhibit F (p. 364, record), typewritten on page 365 of the record, under some dresses belonging to Arriola's wife; that it was addressed to the latter, apparently by Agripino Agoncillo; that, more than two months after the crime, witness sent this letter to his cousin Irineo Arriola, as he believed it might be useful to him at the trial; and that the day after the crime he found the three empty cartridges at three different places on the road.

The offended party stated in his affidavit that, aside from the information he had received relative to the illicit relations his brother-in-law, the defendant Agoncillo, maintained with Arriola's wife, he exhibited, as proof of

such relations, the letter marked Exhibit F, which his cousin Timoteo Marella sent to him from Calaca to the hospital where he was being cured of his wound, a letter which was addressed to Arriola's wife, Petra Navarro, known also by the nickname of Toneng, by Agripino Agoncillo, who signed it with the nickname of Pinong. Arriola further stated that this letter was written in the defendant's handwriting, with which he was acquainted as Agoncillo was his brother-in-law and had been an office companion of his, and that the writer of the letter had inclosed therewith the newspaper clipping marked as Exhibit G.

The defendant Agoncillo, after expressing in the said letter Exhibit F the profound and intense love he felt for Petra Navarro and the great interest he took in her, and at the same time his hatred and contempt for her husband, designated the latter by a contemptuous and injurious nickname, and gave the woman advice for the protection of her property against her husband's conduct. He inclosed in the letter a clipping from a newspaper of this city in order that she might read it, as it related to the case of a recent elopement of a married woman with an unmarried youth, and asked her whether she was capable of doing what the woman did to whom the clipping referred. He also made the following statements in the said letter:

"I have now many of those things you asked me to buy in Taal. Two or three capsules I think will be enough; but I'm keeping these for myself against the time when I may be unable any longer to resist such suffering. When you see me a corpse, I'm going to ask you to pray for me. Are you capable of doing it? Perhaps you will not even do this, but will ask instead a malediction."

The witness Timoteo Marella, having before him the letter Exhibit F, stated positively that the handwriting was that of Agripino Agoncillo, whom the witness had several times seen write when the latter was justice of the peace, and in this connection he exhibited the letter, Exhibit 1. written and signed by the defendant Agoncillo, the handwriting of which is the same as that of the letter Exhibit F, aside from the fact that the defendant did not deny having written or disclaim knowledge of the said letter Exhibit F. Witness added that the letter Exhibit I was handed to him by Jose Malabanan, who, after the crime, had found it in the street in front of Mariano Admana's house.

The defendant Agripino Agoncillo pleaded not guilty and swore that he had received the letter referred to on page 889 of the record five days prior to the shooting; that on the same night he received it he replied to it in the letter mentioned on page 391 of the record; that at about 9.30 of the night of May 16, 1913, he and Mariano Admana left the parochial building together, where they had greeted Bishop Petrelli and, passing through the courtyard of the church, went toward the south, in the direction of Calle Vizconde; that they stopped a while in front of the municipal building, on account of the municipal president Arriola's calling Mariano Admana, and that Arriola then said to appellant: "We're going to bring this affair to a close. At all events, I'm going to kill you tonight; you're a traitor;" to which Agoncillo replied that he had done nothing wrong and consequently had no need to make explanations to Arriola; that after this the latter entered the municipal building, while appellant and his companion continued on their way toward the north, passing by the house of Mariano Admana, where he met Placida Hernandez; that, on his taking leave of Admana, the latter insisted on accompanying him, saying that he had an enemy, and then they went toward the north; that on that occasion, and ever since appellant had received the letter in which Arriola challenged him to a duel, he went armed with a revolver, because he had learned that Arriola, upon receiving appellant's reply to that challenge, was looking for him with a shotgun to shoot him; that while appellant and Admana were in the doorway of Elpidio Marasigan's house on Calle Igualdad, Arriola commenced to strike the appellant and continued so to do until he arrived in front of Matilde Vizconde's house when Arriola dared appellant to attack, to which Agoncillo replied that he could not attack, and notwithstanding President Arriola continued to attack him with a knife and afterwards hurled his cane at appellant, which missile he was able to dodge; that as Arriola continued furiously to attack him, he found himself obliged to fire a shot, though without taking aim and for the sole purpose of causing Arriola to desist from his purpose, and that as

Arriola persisted in his assault appellant fired three more shots at him only to cause him to desist from his attack, for he did not aim at Arriola's body but aimed low to wound him in the feet and avoid fatal consequences; that he had no intention to kill him, though, if he had wished to do so, he could easily have done it, because, as appellant had been a revolutionist, he was accustomed to handle firearms, especially revolvers; that as a result of the third or fourth shot he saw Arriola fall to the ground, and then appellant left the place and started for home, but on arriving at Calle Igualdad the chief of police overtook him and fired a shot at him, wherefore he hid himself on the schoolground lot; that the chief of police came up in response to Arriola's cries of "Police, shoot him, kill him," though at that moment appellant saw no police officer in the place; that it was not true that on that occasion the chief of police Timoteo Mendoza two or three times commanded him to halt, but that when two policemen appeared at the place where he was in hiding he gave himself up, throwing on the ground the revolver he was carrying; that when these policemen asked him why he had wounded the municipal president, he did not tell them that it was necessary to kill that kind of folks; that he could not escape from the pursuit of his assailant, Arriola, as he was weak on account of an intestinal malady and a relapse he had had, and that if he had done so, he would have been wounded in the back; that when he fired the first shot he was about two meters away from Arriola, and about one meter or less when he fired the second shot; that he believed the wound was inflicted by the fourth shot; that Arriola followed and attacked him for a distance of 35 meters, notwithstanding that he saw that appellant was armed with a revolver; that had he not been in actual danger, he would not have shot at Arriola; and that appellant's companion, Admana, also saw the dagger with which, besides the cane, his assailant was armed.

The other defendant, Mariano Admana, acquitted on trial, corroborated the testimony of Agripino Agoncillo in whose company he was on the night of the crime, and added that, when witness and Agoncillo met President Arriola in front of the municipal building immediately after the defendants had come out of the municipal building, Arriola advised witness to separate from his companion Agoncillo because he, Arriola, was determined to wind up the affair he had pending with the latter and kill him, for Agoncillo was a treacherous man; that, as they were both friends of Admana, he begged Arriola to desist from his evil purpose and calm himself; that Arriola then reentered the municipal building and called the policemen, while Admana and Agoncillo went toward the north of Calle Vizconde; that after a short conversation with Placida Hernandez, Agoncillo tried to return to his home, though witness invited him to come to his; that Agoncillo then told him that if Arriola assaulted him (Agoncillo) he would defend himself; that meanwhile they went toward the north, at which moment President Arriola arrived and said to witness: "Since you do not wish to separate from Agoncillo, here goes," and thereupon, with the dagger he was carrying, attacked witness who therefore started to run toward the east; that Arriola immediately thereafter also attacked witness' companion Agoncillo; that as Agoncillo kept retreating, Arriola said to him: "Whether you attack or not I'm going to kill you," to which Agoncillo replied that he could not attack; that thereupon Arriola hurled with his left hand the palma brava cane he was carrying, and on his doing so Agoncillo fired the first shot; and that according as the latter kept retreating he continued firing until he had discharged four shots, as a result of which Arriola fell to the ground in a sitting posture with a dagger in his right hand and shouting for the police; that as soon as a policeman came up Arriola said to him: "Kill him, shoot him," for Agoncillo had gone toward the north and the policeman fired a shot at him; that he did not induce his coaccused Agoncillo to fire at Arriola, for witness was a friend of the latter and was in no manner concerned in the trouble between Agoncillo and Arriola; that afterwards, a natural son of Arriola proposed to witness that he testify in Arriola's behalf, in order to be excluded from the charge, but that he refused to do so because that would be to testify against the truth, that in fleeing from Arriola's assault and when he had gotten a certain distance away, he stopped to see what might happen to his codefendant; that he did not ask for help, nor approach Agoncillo to help him, because witness was unarmed; and that he then saw that there were many people in the nearby store of Eusebia Alamag and that Agoncillo fired shots while falling back to a place in front of the house of Matilde Vizconde.

The witness Melecio Nuay testified that while in Calle Vizconde he saw President Arriola pursue with a dagger the defendant Agoncillo; that at that moment he heard shots from a firearm and on the fourth shot saw Arriola fall to the ground in a sitting posture; that while Arriola with a dagger was pursuing Agoncillo, the former hurled a cane at the latter; that Agoncillo, when he fired, was at a distance of one braza, more or less, from Arriola, who was pursuing him, and that as Agoncillo fired the shots he kept falling back; that when Arriola was in a sitting posture he called the police and ordered them to fire at his assailant; and that the policeman who came up to Arriola went toward the north and fired.

The other witness, Fausto Vidal, stated that when President Arriola left the municipal building that night he was followed by the chief of police; that witness was then in Inves Vivo's store and saw the quarrel as the men turned into Calle Vizconde, on which occasion Arriola pursued Agoncillo, saying to him: "Whether you attack or not, I'm going to kill you," to which Agoncillo replied: "I'll not attack you;" that thereupon Arriola with a dagger furiously attacked Agoncillo, and a moment afterwards witness heard four shots fired by Agoncillo one after the other; that the fourth shot wounded Arriola when he was about one braza away, whereupon Mariano Admana ran off; and that a moment afterwards the chief of police came up.

Vicente Lontok, a municipal physician of the pueblo of Taal, testified that the defendant Agoncillo had been sick with diarrhea, pains in the stomach and vomiting, and that on May 16, 1913, although completely recovered he was still feeling a little weak. Witness added that Arriola was a larger and stronger man physically than Agoncillo, as he was older than this defendant.

The defense presented in evidence the letter Exhibit 3 addressed to the Executive Secretary by the provincial treasurer, reporting the temporary suspension of Agripin , Agoncillo and the result of his investigations, to wit, that the municipal president, Arriola, was the aggressor, and that Agoncillo acted in self-defense.

The complaining witness, Arriola, testifying in rebuttal for the prosecution, denied that on the night in question he had called to Mariano Admana from in front of the municipal building, or that he had told the latter to separate from Agoncillo because that night witness would kill Agoncillo. He stated that it was also untrue that he had met the two accused in front of Elpidio Marasigan's lot and that he told Admana, that as the latter would not separate from Agoncillo, he, the witness, would attack Admana with a dagger; and that it was likewise untrue that witness with a dagger pursued Agoncillo from Calle Igualdad to Calle Vizconde and to a place in front of Matilde Vizconde's house; he also denied that he then told Agoncillo to attack.

Felix Urbano stated among other things that while in the house of his father-in-law that night, he heard shots and saw people running by; that he approached the place whence the shots were fired and saw the municipal president sitting on the ground and beside him, among others, Jose Malabanan and Agripino Vivo, whom witness assisted in carrying the wounded man to the upper floor of Matilde Vizconde's house.

Manuel Macatangay, a witness in rebuttal for the defense, testified that one day Ruperto Espinosa, while speaking to him about what had occurred between Arriola and Agoncillo, told him that a member of Arriola's family had invited Espinosa to testify as a witness in Arriola's behalf, but that Espinosa, although he had knowledge, of the occurrence, refused to do so, for the reason that he did not wish to have trouble with any of the parties, as he was a merchant; and that witness was in fact a brother-in-law of the defendant Agoncillo.

From the facts so fully related above it is Seen that Agripino Agoncillo, accompanied by Mariano Admana, did intend, on the night of May 16, 1913, treacherously, to kill Irineo Arriola in Calle Vizconde, pueblo of Calaca, and that, if he did not succeed in carrying out his vicious intent to kill the husband of his querida, notwithstanding that he performed all the acts conducive thereto and which should have resulted in the death of the assaulted man, the failure was due to the chance that three of the four shots fired at close range perhaps missed their mark, and to

the victim's good luck, all reasons independent of the aggressor's will. Therefore the crime which gave rise to these proceedings must be classified as frustrated murder, provided for in article 403, in connection with articles 3, paragraph 1, and 65 of the Penal Code, inasmuch as Agripino Agoncillo assaulted Arriola by firing at him from a distance of one braza, more or less, at a time when Arriola was walking along the said street with his back toward his assailant, and by employing in the assault ways and means directly and especially tending to insure the consummation of the crime without risk whatever to his own person such as might have resulted from any defense the offended party might have made, for, with no prior provocation, Arriola, unwarned and without noticing that he was going to be assaulted, was walking quietly along ahead of Agoncillo, who, without giving previous warning and without saying a single word, treacherously and with impunity to himself fired at Arriola, and the assaulted man, on hearing the first shot, turned half around to see who had shot at him and thereupon was hit in the left thigh by a bullet fired at the second shot, at which moment and as a result of this wound Arriola fell to the ground in a sitting posture, and while in this position his assailant fired two more shots at him, both of which, luckily, missed their mark or the body of the assaulted man.

In view of the previous trouble between Agoncillo and Arriola due to the illicit relations maintained between Agoncillo and Arriola's wife, which were discovered rather late by the husband and were sufficiently proven at the trial, and, further, in view of the decided purpose of the aggressor to remove from his way the husband who hindered him in his relations with the unfaithful wife, it is unquestionable that Agoncillo had the decided intention to kill Arriola; though he saw that after the first shot Arriola fell to the ground in a sitting posture, he still fired two more shots at him, notwithstanding that Arriola did not spring at his assailant, nor even perform acts of self-defense, but without fleeing and without moving remained quietly where he had fallen; and if Arriola was not hit by the last two shots fired at him it certainly was not because his assailant had no intention to cause him a mortal injury, but, on the contrary, all the acts performed by Agoncillo show beyond peradventure that in attacking Arriola his firm intention was to deprive him of his life, undoubtedly for the purpose of removing the only obstacle to the continuance in absolute liberty of the illicit relations he was maintaining with the wife of the offended man, as the defendant and the adulterous woman, dominated by the amorous passion which enthralled them were determined, judging from what the former said in a letter addressed to the latter, relative to some capsules, to resort to the poisoning of the unfortunate husband. Therefore the crime under prosecution should in justice and in accordance with the penal law be classified as frustrated murder, inasmuch as it is absolutely undeniable that the assault was made perfidiously, without risk to the aggressor, and was consequently treacherous, as the first shot was fired suddenly and without the assaulted man's previously noticing that it was to be fired, and when he was wounded by the second shot it was at the precise moment when he turned his face at hearing the first shot. It is to be noted that on the defendant's arrest, he said to his captors that men like President Arriola ought to be killed.

The assault was witnessed by several persons, some of whom were presented by the defense at the trial, and the assailant himself did not deny that he fired as many as four shots, although, in admitting that he did, he pleaded self-defense against an assault with a dagger and a cane previously made upon him by Arriola, who, on his part denied having made any such assault or that he then carried a dagger.

The record, however, does not show that this pleading of previous unlawful assault by Arriola was duly and satisfactorily proven, inasmuch as the testimony of the other accused, Mariano Admana, and that of the two witnesses who stated that they saw that unlawful assault by Arriola, aside from being inconsistent in itself regarding the declarations of the defendant Agoncillo and contradictory in part to the testimony given by the latter, contains improbable assertions which make Admana's testimony and that of the two said witnesses incredible and unworthy of serious consideration, especially when weighed with that given by the witnesses for the prosecution who actually saw the acts performed by the defendant Agoncillo, just as they were related by the

complaining witness Arriola.

It is affirmed in a positive and uniform manner by the witnesses for the prosecution that they saw at the place of the assault the offended party, the defendant Agoncillo and the latter's companion, Mariano Admana, which latter saw the acts performed by Agoncillo, although he did not actually take part therein nor attempt to prevent their performance; while the witnesses for the defense make no mention whatever of the presence there of the accused Admana, notwithstanding that both defendants testified that they were traveling together that night when, in front of the municipal building, they met the offended party, Arriola, who then preceded them on the way. Both Agoncillo and his three witnesses stated that when the former was attacked with a dagger by Arriola and while Agoncillo continued to draw back for a distance of 35 or 40 meters and remove himself further from Arriola, who was attacking him, Arriola, in the midst of the fury of his attack, threw at Agoncillo the palma brava, cane he was carrying. Had the cane been thrown as alleged, it would have been found at some distance from the place where Arriola fell wounded, and in proof that the latter did not throw it at the defendant Agoncillo. it was afterward found at the wounded man's feet when he was removed from the street by the people who came up on hearing the shots. Therefore, if this particular of the assault with the cane, affirmed by Agoncillo, is not true, the unlawful assault with a dagger, also claimed by the real assailant but denied by Arriola, is probably likewise untrue, for the reason that no dagger of any kind was found in the place where Arriola fell wounded, nor was such a weapon found in the latter's possession when he was undressed on the upper floor of Matilde Vizconde's house, where he was taken after he was wounded; moreover, if three of Agoncillo's witnesses testified that they saw Arriola armed with a dagger, Arriola and three of his witnesses denied having seen such a weapon either in the possession of the offended party or in the place where the latter fell after he was shot.

For lack of proof and because the said deadly weapon was not found, it is impossible to And that Arriola carried a dagger besides the ordinary cane with which he was provided on the night of the crime; and if, as alleged, the unlawful assault was made with a dagger, since this weapon was not found and any such assault was denied by Arriola, the alleged assailant, it would be improper to conclude that the crime under prosecution was preceded by such unlawful assault on the part of the wounded man Arriola, and that the defendant Agoncillo, in firing four shots in succession at the offended party, acted in lawful self-defense. The defendant impelled by his amorous passion for the latter's wife and by his hatred for her husband, who was an obstacle to the unlawful relations he was maintaining with the faithless wife of the victim of whom he was even jealous, though he was but a mere seducer of a married woman.

The challenge which by the letter Exhibit 1 the aggrieved husband addressed to the defendant is not proof that he intended to assault the latter that night, as the appellant averred. It is not to be wondered at that a husband who for the first time learns of the infidelity of his wife with no less a person than his brother-in-law, upon whom he had bestowed all sorts of kindness, should have written the statements contained in the said letter, the contents of which affirm the certainty of the acts revealed by Agoncillo's letter to the unfaithful wife Petra Navarro, who virtually corroborated the certainty and reality of her illicit relations with her husband's brother-in-law, for, knowing that her husband was lying dangerously wounded in Matilde Vizconde's house, she not only did not go there but also, while he was in the hospital, did not go to see him until a very long time afterwards, and then paid him a visit only such as a mere acquaintance might have made: neither did she take any care whatever of her husband during his sickness. The trial court considered this conduct of Arriola's wife as execrable.

In the judgment appealed from it was held that the statements of the offended party and the testimony of the witnesses for the prosecution were more worthy of credence, and in view of the fact that the judge who heard them at the trial had an opportunity to observe the gestures, features, demeanor and manner of testifying of the said witnesses, and of the further fact that it has not been proven that the trial court incurred any error or failed to

take account of any important fact or circumstance, or that he improperly interpreted their meaning, his conclusions based on the evidence as a whole must be accepted, and there is no legal or other well-founded reason to warrant a different view of the case.

Notwithstanding that it was proven at trial that the defendant Agoncillo was armed with a revolver, at least on the night in question, even when he went to the parochial building to greet Bishop Petrelli, yet it cannot be held that he committed the crime with premeditation. There is not sufficient proof to show that any existed as we cannot be sure that Agoncillo had the premeditated intention to attack and kill the offended party; but it is undeniable that the assault, consisting of the firing of four shots with an accurate revolver of late model, was effected with treachery. The crime in question must therefore necessarily be classified as frustrated murder, and, as no aggravating or extenuating circumstance attended its commission, the penalty fixed by law should be applied in its medium degree.

For the foregoing reasons, whereby the errors assigned by the defense to the judgment appealed from have been refuted, it is proper' to reverse the said judgment, and to sentence, as we do hereby, Agripino Agoncillo, as principal in the crime of frustrated murder, to the penalty of twelve years and one day of cadena temporal, to the accessory penalties provided in article 56, to indemnify the offended party in the sum of P1,800 for expenses of medical treatment and for losses and damages occasioned him, without subsidiary imprisonment, in view of the nature of the principal penalty, and to pay one-half of the costs of first instance and all those of this second instance. So ordered.

Arellano, C. J., Johnson, Carson, Trent and Araullo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.