

THE UNITED STATES, PLAINTIFF AND APPELLEE VS. EUFRASIO ALANO Y AGBUYA, DEFENDANT AND APPELLANT.

G.R. No. 11021. December 01, 1915

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11021/>

TORRES, J.:

This cause was instituted upon a complaint filed by the prosecuting attorney, on August 1, 1914, charging Eufrasio Alano y Agbuya with the crime of homicide, and on October 19th of the same year the trial court rendered judgment sentencing the defendant to the penalty of fourteen years eight months and one day of cadena temporal, to the accessory penalties, and to pay the costs. From this judgment defendant appealed.

About 5 o'clock in the afternoon of July 27, 1914, Modesta Carballo, a friend and comadre of Teresa Marcelo, who had a store near a cinematograph on Calle Tennessee of the district of Malate, went to Teresa's house on the same street to make her a present of five tickets for admission to the said cinematograph. When Maria Remigio, her husband F. M. Gleach, and Maria's sister, Antonina Remigio, returned home and learned of the present, they got ready to go to the cinematograph; but Tomas Ramos and his wife, Ricarda Garces, who both also lived in that house, did not do so, because the former was in a billiard hall at the time, and the latter was lying sick in a room of the house. In obedience to the suggestion of her husband, the defendant Teresa Marcelo did not accompany the party to the cinematograph, as one of her children was sick, but still a little while afterwards Modesta Carballo approached the house where the defendant was, to call Teresa, who then told Modesta that she would not go to the cinematograph, for the reason mentioned. Thereupon the defendant Eufrasio Alano and his wife Teresa Marcelo amused themselves at the card game of "black jack." About half past seven that evening the defendant, feeling tired, went to bed, while his wife remained at the window looking out and a little while afterward told her husband that she would go down for a moment to the Chinese store near by, which she did.

As Teresa Marcelo was slow in returning and her sick child was crying, Eufrasio Alano left the house to look for her in the Chinese store situated on the corner of Calles Dakota and Tennessee, and, not finding her there, went to look for her in another Chinese store near by, with the same result. He therefore started to return home through an alley where he tripped on a wire lying across the way. He then observed as he stopped that among some grass near a clump of thick bamboo a man was lying upon a woman in a position to hold sexual intercourse with her, but they both hurriedly arose from the ground, startled by the noise made by the defendant in stumbling. Alano at once recognized the woman as his wife, for whom he was looking, and the man as Martin Gonzalez, who immediately started to run. He was wearing an undershirt and a pair of drawers, which lower garment he held and pulled up as he ran. Enraged by what he had seen, the defendant drew a fan-knife he had in his pocket and pursued Martin Gonzalez, although he did not succeed in overtaking him, and, not knowing where he had fled, returned to the house, where he found his wife Teresa in the act of climbing the stairs. He then reprimanded her for her disgraceful conduct and immediately stabbed her several times, although she finally succeeded in entering the house, pursued by her husband and fell facedownwards on the floor near the place where the sick woman Ricarda Garces was lying. The latter on seeing this occurrence, began to scream and started to run, as did also

Teresa Marcelo who had arisen and gone down the stairs out of the house; but her infuriated husband again assaulted her and when she reached the ground she fell on one of the posts beside the stairs. When the defendant saw her fall, he entered the house, took some clothes and started out in the direction of Fort McKinley,

Between pages 14 and 22 of the record there are some photographs of the house and the place where the crime was committed and of the corpse of the deceased, and a sketch of the place where the lovers were caught and the woman assaulted. According to the testimony of the physician who examined the body of the deceased and performed the autopsy on the afternoon of the following day, July 28, 1914, twenty-four wounds were found on different parts of the said body, the most serious of them being a mortal wound in the neck which severed the jugular vein. The body also had several stabs, inflicted by a sharp-pointed instrument which penetrated the thorax into the pleura and caused a profuse hemorrhage and loss of blood. The point of this instrument was broken off and embedded in the wound in the victim's head. (p. 124, record.)

The prosecution, relying on the testimony of the housecompanions of the deceased and the defendant, nearly all of them relatives of the former, presented a different statement of the facts, which is absolutely unproven and unsupported by any evidence whatsoever, even circumstantial.

In order to form a correct opinion and rightly judge the killing of Teresa Marcelo by her unfortunate and unhappy husband, Eufrasio Alano, we deem it indispensable to relate herein certain antecedents which drove the defendant to kill his wife, Teresa Marcelo, whose depraved and immoral conduct he partly blames on her mother, Maria Remigio.

An unkind fate willed that the house opposite the one where the defendant and the deceased, with her mother and other relatives, lived, should be inhabited by the widower Martin Gonzalez, a brother-in-law of Modesta Carballo, in whose store Martin Gonzalez and Teresa Marcelo were accustomed to meet, and, judging from the conduct of the unfaithful wife, it appears that these two maintained illicit relations with each other even prior to 1913.

One day in March, 1913, Teresa Marcelo disappeared from the house in which she lived with her husband, without advising him of her departure or asking his permission. The husband therefore notified the chief of police of her flight and subsequently learned that she had gone with her mother to the Island of Corregidor. She did not return home until the 15th of July of that year, and then her husband noticed that her abdomen was enlarged and that she had been pregnant for several months, and in fact on the 30th of the following December she gave birth to a child, which her husband suspected she had conceived by another man for he testified that he had had no carnal intercourse with her just prior to her departure for the Island of Corregidor as she was then menstruating. Afterwards the defendant was surprised on his return from work one day to find that a festival was going on, which turned out to be in celebration of the baptism of the newly-born girl, named Nena, the godmother of whom was the said Modesta Carballo, who therefore became the comadre of the defendant's wife.

The defendant used to be away from his house at work during the day and on his return home often found his wife conversing with Martin Gonzalez in Carballo's store, where the witness Candido de Vera also had seen the woman and this paramour of hers treating each other with great familiarity. On other occasions, when the husband returned from work he had found his wife, her mother, Martin Gonzalez and others playing panguingue in his house. The defendant also testified that he had observed that his wife used to be at the window of her house very early in the morning at a time when Gonzalez would be at the window of his house situated opposite, and that when Gonzalez would prowl about the defendant's premises, his wife, the deceased, would become nervous and uneasy.

One day in March, 1914, the defendant went to Baguio, accompanying his employer, Mr. Shearer, and remained there three months. During his stay in that city he received a letter from one of his friends in Manila, informing

him of the disgraceful conduct of his wife, Teresa Marcelo, and Martin Gonzalez. After taking note of the contents of this letter, the unhappy husband sent it to his wife, in order that she might know that he was aware of her evil conduct. This letter was not recovered by the defendant afterwards.

One evening on or about the 15th of June, 1914, after the defendant's return to Manila from Baguio, he bade his wife good-by, telling her he was going to see his employer. On leaving the house between seven and eight o'clock he went to a Chinese store on the corner of Calles Tennessee and Dakota and remained there until about eight o'clock that same evening, when he saw Martin Gonzalez alight from a street car; therefore, instead of going to Pasay, he returned to his house, the door of which he found closed, and on pushing it open saw his wife and Martin Gonzalez lying down together. When they saw him and heard the insult he addressed to them, they immediately arose and while the woman in tears was embracing her husband and promising him that she would never again do what he had seen, Gonzalez, who also begged his pardon, on seeing Alano seize a bolo made his escape by jumping to the ground from an opening in the kitchen. On this occasion the husband took pity on his wife, for with tears flowing she begged his forgiveness on her knees and he warned her that if she again did what she had done, he would kill both her and her paramour wherever he found them. Nobody learned of this occurrence, and the next day the defendant bought a knife which he showed to his wife to frighten her, and from then on carried it in his pocket.

Upon arraignment the defendant pleaded guilty, but denied the acts ascribed to him by the witnesses for the prosecution. One of these, Tomas Ramos, was away from the house in a billiard room at the time Teresa, pursued by the defendant, entered the house; the only witness who was present therein and saw her enter the living room where this witness was lying down and fall beside her was Ricarda Garces. For this reason no credence can be given to the testimony of the other witnesses, who were relatives and house companions of the deceased, because at the time of the occurrence they were all away, attending a cinematograph performance.

Aside from the contradictions of the witnesses for the prosecution, Maria Remigio, the deceased's mother, the latter's sister Antonina Remigio, and her husband Frank M. Gleach, it is undeniable that, as they were away from the house in a cinematograph at the time of the occurrence, they could not have witnessed the assault made by the defendant upon the deceased. Nor was Tomas Ramos, Ricarda Garces' husband, present at the assault. As stated above, he was then in a billiard room, and this fact was affirmed by the witness Candido de Vera, who testified that when he inquired of Ramos about what had happened, the latter told Vera that he knew nothing about it because he was in the billiard room when it occurred. When Ramos made this statement to the witness Vera, Antonina Remigio was present and, though the latter heard Vera's testimony on this point, she did not contradict him. Therefore, as these witnesses did not see what occurred, they could not in good faith have testified in the way they did. Ricarda Garces, the only person who was lying down in the room of the house and who saw Teresa only when she entered the room, pursued by her husband, did not see the beginning of the assault on the stairs of the house, nor did she see Teresa fall on the ground near the foot of the stairs, and if the blood stains noticed by the police, extending from the place where she was first assaulted, confirm the statement of facts made by the defendant, the detail of the absence of mud stains on the tapis exhibited by the prosecution does not prove in the slightest that it is not true that she was caught while lying on the ground in illicit intercourse with Martin Gonzalez, inasmuch as the record does not show that it was ascertained whether, when Teresa Marcelo left the house that night to meet Martin Gonzalez in the place where they were caught by the defendant, she was wearing the said tapis exhibited in evidence or some other, for the tapis she wore would necessarily be stained with blood, in view of the many wounds she received, some of them in her back and in parts of her body below her waist; so, if the deceased was then wearing a tapis, it was not the one exhibited at the trial. Furthermore, the record does not show whether or not it was ascertained that she lay down on wet ground, and, as there was grass in the place where she lay, it is hardly probable that her clothes would be stained with mud or even soiled with earth.

But one witness, a woman, saw a part of the assault made by the defendant upon the deceased, and when Teresa Marcelo and Martin Gonzalez were caught in carnal intercourse no witnesses were present other than the wronged husband and the seducer, the latter of whom endeavored to establish an entirely unfounded alibi; and though the record discloses no evidence at all, even circumstantial, to contradict the frank and free declaration of all that occurred on the evening of the said 27th of July, 1914, the defendant's reasonable and simple testimony contains an individual confession of the crime committed by him and of the motive which impelled him to commit it. That confession, made at the trial before a competent judge, is not susceptible of division. We cannot admit only the part thereof unfavorable to the defendant, and reject that part of it which favors him. In rigorous and strict justice, his frank confession with all his explanatory statements in his own defense must be considered and admitted in their entirety, and as they do not appear to have been contradicted or refuted by any evidence, even circumstantial, there is no reason why they should not be considered as the truth.

The Supreme Court of Spain in its decision of May 8, 1875, laid down the following principle: "When the defendant's confession is accepted to find him guilty, without setting forth other grounds, it must be admitted in its entirety, as well in respect to what is prejudicial to him as to what is beneficial; and if it unquestionably appears therefrom that the crime was attended by the extenuating circumstance of prior and immediate provocation by the injured party, this circumstance must be taken into consideration"

When such a circumstance as alleged by the defendant in his confession appears to be intimately connected therewith in such wise that the circumstance and the confession form but one complex fact, so that the crime confessed is essentially conditioned by the circumstance alleged, in which case the defendant's confession is qualificative and individual, as that made by the defendant Eufrazio Alano, then, in the absence of proof to the contrary, such confession must be accepted in all its parts.

Far from there being any reason even to doubt the truth of what the defendant testified and confessed, the record affords convincing proof that he had always conducted himself well and that there had never been the least complaint against him on the part of the several public officials and army officers whom he had served as a servant and a cook, while on the other hand, the deceased had for some time past been unfaithful to her husband and had maintained illicit relations with her neighbor Martin Gonzalez; and if nothing occurred when this man and Teresa Marcelo were caught lying together one night in the husband's house, it was perhaps because the husband was unarmed and took pity on the woman who wept and embraced him while her paramour jumped out of the house and fled, and the defendant pardoned his wife upon her promise that she would not again commit a similar act of infidelity, a promise she did not keep.

Hence, prior to the acts performed in the evening of July 27th, and for several years before, there had existed illicit relations between the deceased and Gonzalez; these relations came to be known by the husband, and the adulteress was aware that he knew of them; and as the woman and her paramour persisted in maintaining such relations, despite the threat of the wronged husband, whose patience was such that he pardoned his unfaithful wife, it is not strange that these illicit relations should some day have terminated fatally.

From the record it appears, then, to have been fully proven that, because the defendant caught his wife, Teresa Marcelo, in the act of committing adultery with Martin Gonzalez, after he had unsuccessfully pursued the latter, who succeeded in escaping and hiding himself, he assaulted the adulteress and inflicted upon her twenty-four wounds which produced her death a few moments afterwards. This crime is provided for in article 423 of the Penal Code, and no valid objection to his finding lies in the circumstances that the unfaithful wife was not killed in the very place where she was caught, for the reason that the wronged husband preferred first to attack the despoiler of his honor and afterwards the adulterous wife who succeeded in getting away from the place where she was caught with her paramour. The assault upon the woman must be understood to be a continuation of the

act of the wronged husband's pursuit of her paramour, who had the good fortune to escape and immediately get away from the place of the crime. Consequently, although the deceased did not fall dead in the place where she was caught, but in another place near by, logically it must be understood that the case at bar comes within the provisions of the said article 423 of the Penal Code.

For the proper imposition of the penalty prescribed by law, account must be taken of the extenuating circumstance that the defendant acted upon an impulse of passion and obfuscation, and also of the special circumstance provided in article 11 of the Code, as amended by Act No. 2142; and, as there is no aggravating circumstance to offset these extenuating ones, the penalty of destierro (banishment) should be imposed upon him in the minimum degree.

For the foregoing reasons, the judgment appealed from is reversed and Eufrasio Alano y Agbuya should be sentenced, as he is hereby, to the penalty of six months and one day of banishment (destierro) from the district of Malate, and he shall not reside or enter within a radius of twenty-five kilometers from the church of the said district during the period of this sentence. The costs of both instances shall, furthermore, be charged against him, without prejudice to his being furnished a certified copy of this decision and placed at the disposal of the Court of First Instance, so that he may be released from custody in order to serve out the said sentence of banishment (destierro). So ordered.

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

Judgment modified.

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.