

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BAHATAN AND KAMIHAN, DEFENDANTS AND APPELLANTS.*G.R. No. 11510. August 08, 1916*

Ponente: MORELAND, J.

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This case comes to this court en consulta, that is, automatically, the accused having been condemned to die. They were charged with murder. The trial court found them guilty as charged with the aggravating circumstances of premeditation and despoblado and sentenced them to death.

There is absolutely no doubt as to the guilt of the accused. They both pleaded guilty on arraignment and voluntarily went on the stand as witnesses and testified to the facts constituting the crime charged. They detailed fully and clearly the reasons why they killed Lajo and the manner in which they accomplished his death.

An examination of the record convinces us that the evidence on which the trial court based its finding that the crime was committed in an uninhabited place, that is, en despoblado is not sufficient to sustain the finding. It appears that the crime was committed within 150 meters of a house owned and occupied by Bahatan and that fact, taken in connection with the lack of evidence as to the character of the land intervening between the place of the killing and the house in question, leaves a doubt in our mind as to the fact of despoblado.

We are also unconvinced that there was premeditation in the commission of the crime charged. The statement of the accused demonstrates with fair clearness that the conception of the crime was substantially simultaneous with its execution. No such time, apparently, elapsed between the conception of the crime and the execution thereof as would justify us in finding that the purpose to commit the crime was persisted in to such an extent as to show premeditation. The fact that Bahatan killed Lajo for the purpose of avenging the death of his grandfather does not mean, necessarily, that the accused had reflected on his purpose to commit the crime and that, after such reflection, he had persisted in it to the extent necessary to show premeditation. On the contrary, it appears from the record that the idea of killing Lajo as revenge for his having killed Buhatan's grandfather came from another Igorrote by suggestion and did not originate with Buhatan himself.

We are of the opinion also that the court erred in not applying article 11 of the Penal Code. It appears that the appellants are Igorrotes, that they belong to a pagan savage tribe and have been brought up in the belief that to kill under the circumstances disclosed in this record is justifiable. They are ignorant of the law and customs of civilized society and have little conception of responsibility under any law except that of their tribe.

We agree with the trial court that the crime is properly classified as murder, there being present the qualifying circumstance of alevosia. It clearly appears from the statement of the accused themselves of the manner in which they accomplished the death of Lajo.

The sentence of the trial court is hereby modified and the accused are sentenced each to 17 years 4 months and one day of cadena temporal, to indemnify jointly and severally the heirs of the deceased Lajo in the sum of

P1,000, and to pay the costs of the trial; no costs on this appeal. So ordered.

Torres, Johnson, Trent, and Araullo, JJ., concur.

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