THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. VICENTE LAOTA, DEFENDANT AND APPELLANT.

G.R. No. 22702. October 09, 1924

Ponente: OSTRAND, J.

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OSTRAND, J.:

The defendant is accused of the crime of homicide and lesiones, the information alleging "that on or about February 7, 1924, in the barrio of Tejeros, municipality of Makati, Province of Rizal, Philippine Islands, and within the jurisdiction of this court, the aforesaid accused Vicente Laota, provided with a sharp and pointed weapon, did wilfully, unlawfully and criminally and with intent to kill Demetria Torreblanca, Maria Eufemio and Joaquin Geronimo, assault and attack said Demetria Torreblanca, Maria Eufemio and Joaquin Geronimo several times, thereby inflicting several wounds, mortal of necessity, which caused the death of Demetria Torreblanca and also various wounds on different parts of the bodies of Maria Eufemio and Joaquin Geronimo, which required a period of more than eight days, but less than thirty days of medical attendance in order to heal and rendered said Maria Eufemio and Joaquin Geronimo incapacitated to do their usual work for the same period."

Upon arraignment the defendant pleaded guilty but on motion of his counsel was permitted to introduce evidence in regard to the circumstances which led to the commission of the crime. On the witness stand he stated that the deceased Demetria Torreblanca was his wife and that they were living as husband and wife in the house of one Joaquin Geronimo; that he had trouble with the deceased because she deceived him and that finally she ejected him from the house; that he thereupon, at the invitation, of Emilia Torreblanca, the sister of his wife, went to live in the house of her parents in the same vicinity; that he watched his wife and one evening saw her lie in bed with Joaquin Geronimo; that he then tried to enter the house where she lived but found the door locked; that on the following evening his wife, together with Geronimo and the latter's mother, came to the house of the defendant's father-in-law, where the defendant was then living, but that his father-in-law refused them permission to enter; that Geronimo then said to the defendant's father-in-law "why will you not permit me to enter your house; am I not as good a man as he is (referring to the defendant) ? The defendant further explains that having lived with his wife for many years and seeing her attitude towards Geronimo, he was overcome with rage to such an extent that he did not know what he was doing and while in this condition he attacked and wounded the would-be visitors.

Upon the defendant's plea of guilty and the facts stated, the trial court imposed upon the defendant a penalty of fourteen years, eight months and one day of reclucion temporal for the homicide and two months and one day of arresto mayor for each of the other offenses with which he is charged, all with accessory penalties and costs. From this sentence the defendant appeals and his counsel argues that he is entitled to the benefit of the first paragraph of article 423 of the Penal Code which reads as follows:

"Any husband who, having surprised his wife in the act of adultery, shall kill her or her paramour in the act, or shall inflict any serious physical injuries upon either, shall suffer the penalty of destierro."

The defendant's contention cannot be sustained. The provision quoted applies only to cases where the homicide

occurs immediately after the discovery of the act of adultery. (Sentences of the supreme court of Spain of June 27, 1872, and April 23, 1904.) The case of United States vs. 'Alano (32 Phil, 381) cited by the appellant is not in point. There the discovery of the adultery, the pursuit of the paramour and the killing of the wife was one continuous act; in the present case the killing of the wife occurred the day after she was caught in the commission of the adultery.

The Attorney-General recommends that the extenuating circumstance of arrebato y obcecacion be taken into consideration and that the sentence for the homicide be lowered to twelve years and one day of reclusion temporal. But this extenuating circumstance is offset by the aggravating circumstance of the deceased being the spouse of the defendant and the penalty must therefore be imposed in its medium degree, i. e.f that given the defendant by the court below. The result will be the same if it is found, as is very probable, that the defendant and the deceased were not legally married; we could not then take into consideration the circumstances of arrebato y obcecacition, there being no moral justification for the impulse of aggression. (Sentence of the supreme court of Spain of May 18, 1893; U. S. vs. Hicks, 14 Phil., 217.)

The judgment appealed from is therefore affirmed with the costs against the appellant. So ordered.

Johnson, Street, Malcolm, Avanceña, Villamor, and Romualdez, JJ., concur.

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