

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ANASTASIO DAGMAN ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 23133. August 20, 1925

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-23133/>

MALCOLM, J.:

On the 2d of May, 1924, Elias Magbual, an employee of the hacienda "La Esperanza," while in the performance of his duties, was treacherously attacked by a crowd of persons, probably about forty in number and was nearly killed. The motive of the crime was that the persons who harbored enmity against Magbual had previously been dispossessed of portions of the land by judicial order. The attack began by the crowd shouting "Avance" and with Magbual attempting to escape. But a stone thrown by Anastasio Dagman hit Magbual in the breast, and knocked him down. In this position, he was attacked by Luis Pacunla who wounded him with a lance. Magbual made another attempt to flee only to fall again and to receive wounds made by bolos and clubs wielded by the accused. Magbual escaped death from his tormentors by the ruse of feigning death.

On these facts, seven persons, Luis Pacunla, Andres Rebolledo, Isabelo Rebolledo, Juan Olonan, Anastasio Dagman, Valentin Tabladillo, and Luciano Pacunla, were charged in the Court of First Instance of Nueva Ecija with the crime of frustrated murder. After trial, each of the accused was found guilty by the Honorable Eduardo Gutierrez David, Judge of First Instance, of the crime of frustrated homicide and was sentenced accordingly.

From the judgment last mentioned, all of the defendants have appealed. In their behalf, two errors are assigned and argued, namely, (1) that the trial judge erred in finding that the accused had the intention to kill Elias Magbual, the offended party, and (2) that the trial judge likewise erred in finding that there was an agreement to kill Elias Magbual and therefore in sentencing all of the accused to the same penalty, without taking into account the participation of each one of them in the commission of the crime, if any.

Neither of these points is well taken. The trial judge found each of the accused to have been proved guilty beyond a reasonable doubt of a crime included in the information. There is ample proof to substantiate this finding. The murderous intent of the accused and their joint purpose are likewise clearly demonstrated.

The trial judge, it will be recalled, found the defendants guilty of the crime of frustrated homicide. The Attorney-General, however, recommends that the crime be classified as frustrated murder in view of the presence of the qualifying circumstance of treachery, and that the penalty then be placed in the maximum of that provided by law because of the presence of the aggravating circumstance that prohibited arms were used by the assailants. A majority of the court agree with the Attorney-General. We believe the felony should be classified as frustrated rather than attempted, under the law and the local jurisprudence.

The murder should be regarded as frustrated because the offenders performed all of the acts of execution which should precede the felony as a consequence but which, nevertheless, did not produce it by reason of causes independent of the will of the perpetrators; in this instance, the playing possum by Magbual. (Penal Code, art. 3,

par. 2.) There was an intent upon the part of the assailants to take the life of the person attacked, which intent may be gathered from the circumstances surrounding the attack; in this instance, the nature of the wounds, the cry of the accused, "Vamos a matarle," and their fingering the nose of Magbual to see if respiration continued. (U. S. vs. Mendoza [1918], 38 Phil., 691; U. S. vs. Sanchez [1911], 20 Phil., 427; U. S. vs. Domingo and Dolor [1911], 18 Phil., 250; U. S. vs. Marasigan [1908], 11 Phil., 27; U. S. vs. Reyes [1906], 6 Phil., 38; U. S. vs. Sabio [1903], 2 Phil., 485; U. S. vs. Taguibao [1901], 1 Phil., 16.) Deadly weapons were used, blows were directed at the vital parts of the body, the aggressors stated their purpose to kill and thought they had killed. The subjective phase of the crime was entirely passed, and subjectively speaking, the crime was complete. (U. S. vs. Eduave [1917], 36 Phil., 209.) The particular parts of the body of the person struck during the assault, the deadly character of the weapons used, the violence of the attack, and the accomplishment of the crime with alevosia in such manner as to insure the safety of the assailants while depriving the victim of the opportunity to make defense, classifies the crime as frustrated murder. (U. S. vs. Sanchez [1911], 20 Phil., 427, citing decisions of the supreme court of Spain of April 17, 1895, September 29, 1881, and December 31, 1890.) And finally, that the victim did not die, was owing to a chance or accident or reason independent of the criminal act performed. (U. S. vs. Agoncillo and Admana [1916], 33 Phil., 242.) (See also U. S. vs. Bastas and De la Serna [1905], 5 Phil., 251; U. S. vs. Poblete [1908], 10 Phil., 578; U. S. vs. Domingo and Dolor [1911], 18 Phil., 250; Albert, *The Law on Crimes*, pp. 3133; and 30 C. J., 14.)

In the decision in the case of *United States vs. Lim San* ([1910], 17 Phil., 273, 276), Mr. Justice Moreland speaking for a unanimous court, in part, said:

"The court found the defendant guilty of the crime of attempted murder. We are unable to agree with that finding. We regard the crime as frustrated murder. The distinction between frustrated murder and attempted murder is this: In frustrated murder the accused performs all of the acts which he believes necessary to consummate the crime. Death, however, fails to follow for causes entirely apart from his will. In attempted murder the accused begins the commission of the crime by overt acts, but involuntarily desists from performing the other acts necessary to consummate the crime, he being prevented from so doing by some cause outside of his own will. In the case at bar it appears clearly that the defendant believed that he had performed all of the acts necessary to consummate the crime of murder, and, therefore, of his own will, desisted from striking further blows. He believed that he had killed Keng Kin. Death did not result for reasons entirely apart from the will of the accused. This surely stamps the crime as frustrated murder. If, after the first blow, some one had rushed to the assistance of Keng Kin and by his efforts had prevented the accused from proceeding further in the commission of the crime, the accused not believing that he had performed all of the acts necessary to cause death, he would have been guilty of attempted murder."

Agreeable to the recommendation of the Attorney-General, the judgment appealed from is modified and each of the defendants and appellants is sentenced to fourteen years, eight months and one day imprisonment *cadena temporal*, with the accessory penalties provided by law, and to pay a one-seventh part of the costs of each instance, and all of the defendants and appellants jointly and severally are sentenced to reimburse the offended party in the amount of P65 for medical services. So ordered.

Avanceña, C. J., Johnson, Ostrand, and Johns, JJ., concur.

Villamor and Villa-Real, JJ., did not take part.

Street, J., dissenting: I dissent on the ground that the offence should be qualified as an attempt to commit homicide and not as frustrated murder.

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.