

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND
APPELLEE, VS.. PEDRO DIVINAGRACIA ET AL., DEFENDANTS.
LEOCADIO UBAMOS ET AL., APPELLANTS.**

G.R. No. 23851. February 18, 1926

Ponente: JOHNS, J.

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JOHNS, J.:

STATEMENT

March 28, 1924, the following information was filed against the defendants in the Court of First Instance of Occidental Negros:

"That the aforesaid accused on or about March 26th of this year 1924, in the municipality of Cadiz, of this province, confederating and conspiring among themselves, voluntarily, illegally and criminally and forming a band of more than three armed persons, with known premeditation, began to execute, by external acts, the realization of their purpose of murdering Cesar Lacson in his hacienda, situated within the limits of the said municipality of Cadiz, by striking him with bolos, lances and walking sticks which they carried, and if the accused failed to carry out all the acts of execution that should have produced the crime, it was because the said Cesar Lacson was able to ward off the aggression; but not by the voluntary and free desistance of the defendants.

"Contrary to law."

As a result of the trial, they were all found guilty as charged, and sentenced to four years, two months and one day of prision correccional, with the exception of the defendant, Arcadio Dingson, who, on account of his youth, was sentenced to four months and one day of arresto mayor.

From this judgment, an appeal was taken and perfected by eight of the defendants, by whom the following assignment of error is made:

"The lower court erred in holding that the accused, Leocadio Ubamos, Damaso de Leon, Claro Parondon, Jose Diaz,. Alejo Pareño, Juan Morante, Pelagio Dingson, Gualberto- Villanueva and Florentino Dosa, forming an armed band of more than three persons, committed the crime of attempted homicide upon the person of Cesar Lacson, and in sentencing them to the penalty of four years, two months and one day of prision correccional, and the payment of the proportionate costs, instead of acquitting them for lack of conclusive proof."

The defendants, Eusebio Acero and Leocadio Ubamos,. died, and the appeal of the defendants, Arcadio Dingson, Consorcio de Leon, Pedro Divinagracia, Casiano Villena, Quinto Castor, Carlos Sabanal and Lazaro de la Rosa, was dismissed.

JOHNS, J.:

The only question involved is one of fact. The lower court, in a well written and exhaustive opinion in which he made a careful and detailed analysis of all of the material facts, found all of the defendants guilty as charged.

It appears that Cesar Lacson, the offended party, was the manager of a farm known as Hacienda Lilia. That about March 26, 1924, he had his men plow a certain piece of land; that the defendant, Carlos Sabanal, undertook to plow the same land, which, it appears, had been cleaned, cleared and plowed by the workmen of Cesar Lacson since 1923, and that portion of it had been planted with sugar cane; that while Sabanal was plowing a portion of the land, which on the same day had been plowed by the men of Lacson, he was ordered off and left the field, saying to the men of Cesar Lacson that: "Today is the eve and to-morrow will be the mass." That on March 25, 1924, Catalino Nacion, who was formerly a member of the society Kusug Sang Imol, went to attend a meeting of that society, and while on the stairway, overheard Sabanal asking the members to aid and assist him in plowing the land over which he had a controversy with Cesar Lacson; that on the morning of March 26, 1924, the workmen of Cesar Lacson planted sugar cane on the land which had been plowed. Soon thereafter Sabanal came and again plowed the same land, uprooting the sugar cane which had already been planted. The laborers of Lacson again drove Sabanal away who left disgusted, and went in the direction of a nearby "Nangca" tree, and conversed with a man in a low tone; that after his conversation with Sabanal, this man hurriedly left and went to the barrio of Cadiz Viejo where the meeting of the society Kusug Sang Imol was held on the previous evening; that about noon, several armed persons came from Cadiz Viejo towards the Hacienda Lilia, at which time the bell rang calling the laborers in the hacienda to lunch. Upon the arrival of the men from Cadiz Viejo, the laborers of Lacson had left the field and were no longer at work. That Sabanal again began to plow the field in question, and when the workmen of Lacson returned, they found Sabanal on the land, and again undertook to stop him; that Sabanal then drew his bolo and shouted and made certain signs. When the defendants hastily appeared on the scene coming from the direction of the house of Jose Diaz from behind a bamboo tree and under the leadership of Casiano Villena, who was the president of Kusug Sang Imol of Cadiz Viejo, that Lacson's men then retreated, and notified him of what had happened. Lacson appeared upon the scene, and Sabanal and his companions shouted, saying: "Here is the man whom we are looking for," and directed their attack against Lacson, saying: "You will kill two among us but we will kill you." Lacson defended himself with an automatic revolver, and wounded two of the defendants, all of whom then retreated.

The evidence of the conspiracy is clear and convincing. It is very apparent that Sabanal appealed to the members of his society to aid and assist him in driving Lacson and his laborers off the land, and to take possession of it by force, and that they went there for that purpose, and that all of them were more or less armed, and with evil intention, and that they would have killed Lacson had he not defended himself with his revolver. The defendants were in the form of a mob, and to accomplish their purpose resorted to mob force and violence, and the trial court found that all of them were equally guilty of the crime charged. The language used and the threats made are clear and convincing evidence of their purpose and intent.

The attorney de oficio has filed an exhaustive brief upon questions of fact. But in the final analysis, the record is conclusive that at the special instance and request of Sabanal, the members of the society Kusug Sang Imol, in response to a given signal, came upon the land in dispute with force and arms, and it is very apparent that their original purpose and intent was to take the law into their own hands and to kill Lacson.

There is no merit in the appeal. The judgment of the lower court is affirmed, with costs. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.
Villa-Real, J., did not take part.

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